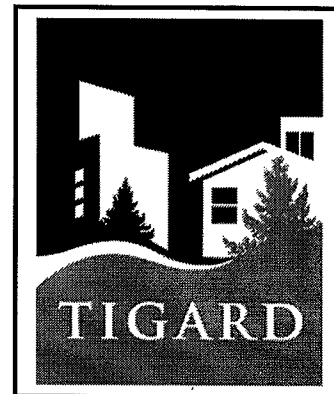




TIGARD CITY COUNCIL & LOCAL
CONTRACT REVIEW BOARD
MEETING

DECEMBER 12, 2006 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

To request to speak to the City Council:

- Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s).
- If no sheet is available for the agenda item you would like to address, sign the Citizen Communication sign-in sheet and ask the Mayor if you may speak to the Council when that agenda item is considered.
- For Citizen Communication items regarding items not on the agenda, citizens are asked keep their remarks to two minutes or less. Longer matters can be set for a future Agenda by contacting the Mayor or the City Manager.
- If you need assistance determining how to sign in, please speak to the staff greeter who will be near the entry to the Town Hall before the Council meeting.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL AND
LOCAL CONTRACT REVIEW BOARD MEETING
DECEMBER 12, 2006

6:30 PM

- STUDY SESSION
 - > City Attorney Review
 - > Report on Gas Tax Town Hall Meetings
 - > Review Reallocation of 72nd Avenue Culvert Project Funds Stormwater Treatment Facility
- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
 - 1.1 Call to Order - City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - Tigard High School Student Envoy Jasmina Dizdarevik
 - Webelo Boy Scouts
 - Follow-up to Previous Citizen Communication

3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

3.1 Receive and File:

- a. Canvass of Votes for City of Tigard Relating to the Election on November 7, 2006
- b. Council Calendar
- c. Council Meeting Tentative Agenda

3.2 Approve Reallocation of Healthy Streams Project Funding from a 72nd Avenue Culvert Project for Design of the Proposed Commercial Street Regional Stormwater Treatment Facility

3.3 Local Contract Review Board:

- a. Award of Contracts for Environmental Assessment and Remediation Services on an As-Required Basis to AMEC Earth and Environmental, Inc. and GeoEngineers
- b. Approve a Contract Amendment to the Commercial Street Design Contract to Create a Regional Stormwater Treatment Facility with OTAK, Inc.

- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*

4. QUASI JUDICIAL PUBLIC HEARING -- TOPPING KEMP ZONE CHANGE ANNEXATION (ZCA) 2006-00003

REQUEST: Annexation of four parcels total containing 1.81 acres to the City of Tigard. Property owners Richard Topping and Katie Kemp request annexation of three parcels, with plans to build a pre-school on one parcel. The City invited owners of six adjacent properties to join the annexation. Property owners Charles and Christina Hanson accepted the invitation and request annexation of one parcel. All property owners and living residents have consented to the annexation. **LOCATION:** SW Spruce Street between SW 72nd Avenue and SW 75th Avenue; 7303 SW Spruce Street, 10735 SW 72nd Avenue, 10705 SW 72nd Avenue, 10670 SW 75th Avenue; WCTM 1S136AC, Tax Lots 2200, 2400, 2500 and 4700. **COUNTY ZONES:** Office Commercial District (OC). The intent of this District is to encourage office complex development of institutional, professional, medical/dental, governmental and other office business uses. The purpose is to accommodate the increasing office needs in complexes ranging in size from small to large-scale development. Office uses are the primary use of this District. To serve the employees of the office complex, some accessory commercial and high density residential uses may be permitted through the Planned Development process; **AND** R-5 District (Residential 5 units per acre). The R-5 District is intended to implement the

policies of the Comprehensive Plan for areas designated for residential development at no more than five (5) units per acre and no less than four (4) units per acre, except as specified otherwise by Section 300-2 or Section 302-6. The primary purpose is to protect existing neighborhoods developed at five (5) units per acre or less. Infill development on all parcels two (2) acres or less may occur only through application of the infill policy (Section 430-72).

EQUIVALENT CITY ZONES: C-P: Professional/Administrative Commercial District.

The C-P zoning district is designed to accommodate civic and business/professional services and compatible support services, e.g., convenience retail and personal services, restaurants, in close proximity to residential areas and major transportation facilities. Within the Tigard Triangle and Bull Mountain Road District, residential uses at a minimum density of 32 units/net acre, i.e., equivalent to the R-40 zoning district, are permitted in conjunction with a commercial development. Heliports, medical centers, religious institutions and utilities are permitted conditionally. Developments in the C-P zoning district are intended to serve as a buffer between residential areas and more-intensive commercial and industrial areas; **AND R-4.5: Low-Density Residential District.** The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally.

Some civic and institutional uses are also permitted conditionally. **APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Policies 2 and 10; ORS Chapter 222; and Metro Code Chapter 3.09.

- a. Open Public Hearing – Mayor
- b. Statement by City Attorney Regarding Procedure
- c. Declarations or Challenges
 - **Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits?**
 - **Have all members familiarized themselves with the application?**
 - **Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council?**
- d. Staff Report: Community Development Staff
- e. Public Testimony
 - Proponents
 - Opponents
 - Rebuttal/Final argument by applicant
- f. Staff Recommendation
- g. Close Public Hearing
- h. Council Discussion and Consideration: Ordinance No. 06-_____

5. LEGISLATIVE PUBLIC HEARING - DEVELOPMENT CODE AMENDMENT (DCA)
2006-00005 - HISTORIC OVERLAY CONDITIONAL USE CODE AMENDMENT

REQUEST: The applicant is requesting to amend various chapters of the City of Tigard Community Development Code to allow meetings and events as a conditional use on properties with Historic Overlays and/or on the National Register of Historic Places in residential zones. The following is a summary of the proposed amendments including the affected code chapters: 1). Chapter 18.130 USE CLASSIFICATIONS: Add a "Meeting and Event Use" category; 2). Chapter 18.330 CONDITIONAL USE: Add additional development standards for conditional use types to allow "Meeting and Event Uses" in residential zones with an Historic District overlay zone and/or on the National Register of Historic Places; 3). Chapter 18.510 RESIDENTIAL ZONING DISTRICTS (Table 18.510.1 - Use Table): Add a use category for "Historic Place Meetings and Events" as a conditional use in all residential zoning districts that have an Historic Overlay and/or are on the National Register of Historic Places; and 4). Chapter 18.740 HISTORIC OVERLAY: Add a General Provision to the Historic Overlay chapter to include "Incentives for maintenance" provision. The full text of the proposed code amendment can be viewed at: http://www.tigard-or.gov/city_hall/departments/cd/code_amendments/historic_overlay.asp

LOCATION: All residential zones with Historic Overlays. **ZONE:** All residential zones with an Historic Overlay Designation.

APPLICABLE REVIEW CRITERIA: Community Development Code Chapters 18.120, 18.130, 18.330, 18.390, 18.510 and 18.740; Comprehensive Plan Policies 1 and 2; and Statewide Planning Goal 1.

- a. Open Public Hearing – Mayor
- b. Statement by City Attorney Regarding Procedure
- c. Declarations or Challenges
 - **Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits?**
 - **Have all members familiarized themselves with the application?**
 - **Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council?**
- d. Staff Report: Community Development Staff
- e. Public Testimony
 - Proponents
 - Opponents
- f. Staff Recommendation
- g. Close Public Hearing
- h. Council Discussion and Consideration: Ordinance No. 06-_____

6. LEGISLATIVE PUBLIC HEARING - COMPREHENSIVE PLAN AMENDMENT (CPA) 2006-00001/DEVELOPMENT CODE AMENDMENT (DCA) 2006-00004 - HABITAT-FRIENDLY DEVELOPMENT PROVISIONS

REQUEST: Amendments to the Tigard Comprehensive Plan (Volume I) and Community Development Code (Sections 18.360, 18.370, 18.705, 18.715, 18.765, 18.775, 18.810) in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods) to adopt the Significant Habitat Areas Map and to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program aimed at encouraging the use of habitat-friendly development practices. The proposed amendments will not result in increased development restrictions but will give developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will remove barriers to, and provide code flexibility for development that incorporates habitat-friendly techniques. The complete text of the proposed Code Amendment can be viewed on the City's website at http://www.tigard-or.gov/code_amendments. **LOCATION:** Citywide. **ZONE:** CBD, C-G, C-P, I-H, I-L, I-P, MUC, MUE; MUE-1, MUE-2, MUR-1, MUR-2, R-1, R-2, R-3.5, R-4.5, R-7, R-12, R-25. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.380, 18.390, 18.705, 18.715, 18.765, 18.775 and 18.810; Comprehensive Plan Policies 2, 3 & 4; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 5 and 6.

- a. Open Public Hearing – Mayor
- b. Statement by City Attorney Regarding Procedure
- c. Declarations or Challenges
 - **Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits?**
 - **Have all members familiarized themselves with the application?**
 - **Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council?**
- d. Staff Report: Community Development Staff
- e. Public Testimony
 - Proponents
 - Opponents
- f. Staff Recommendation
- g. Close Public Hearing
- h. Council Discussion and Consideration: Ordinance No. 06-_____

7. COUNCIL LIAISON REPORTS

8. NON AGENDA ITEMS

9. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

10. ADJOURNMENT

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RAMIS
CREW
CORRIGAN, LLP
ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402
Fax: (503) 243-2944

MEMORANDUM

TO: Liz Newton, Assistant City Manager, City of Tigard

FROM: Timothy V. Ramis, Gary Firestone, City Attorney's Office

DATE: November 22, 2006

RE: Information on Representation of City

To assist the City with the performance review of the City Attorney, we are providing information on significant matters that we have been involved in since the last review in October 2003 and information as to trends that we see regarding the work we perform for the City, as you requested.

Significant Matters

Sign Code Matters

Two sign companies challenged the City's prohibition on billboards at the same time they were challenging other billboard restrictions in other jurisdictions. We successfully defended the City's prohibition on billboards at LUBA and at the Court of Appeals as reasonable time, place and manner restrictions that regulated only the size of the signs, not their content. This is particularly significant in view of recent court decisions that invalidated other jurisdictions' regulation of billboards. The positive result was due in part to earlier efforts to develop a content-neutral sign code and in part to the strategy of having the Council adopt a written interpretation of the then-existing language. We have continued to work with City staff to assure that the City's sign code is effective in protecting the City's interests and defensible against constitutional challenges.

LUBA Appeals

The City has had a large number of LUBA appeals in the last few years. Many of the appeals have been by opponents of City-approved projects that raise issues related to tree protection or other environmental protection standards. We have worked with staff on deciding in which cases the City will participate and in which cases the applicant will defend. As a general rule, we participate when the appeal involves a challenge to the City's code or the City's interpretation of the code. Even if the City does not actively participate, it still has to prepare the record and we have to at least review the briefs to determine whether there is any issue the City should respond to.

Memorandum re: Information on Representation of City

November 22, 2006

Page 2

Bull Mountain Annexation

We have been involved in litigation relating to annexations within the Bull Mountain area. The City's efforts to annex have been made more difficult by actions of the legislature and decisions from LUBA, but the City's authority is now more clearly established. Under the existing decisions, the City may annex territory but will have to apply the Bull Mountain Community Plan to annexed areas unless the City provides a justification for applying its own Goal 5 measure. One annexation matter, the Sunrise Lane annexation, has been remanded on a narrow range of issues. Other matters are either still pending or have been resolved in favor of the City.

Urban Renewal

We assisted staff and the City's consultants in developing the City's urban renewal plan. Our primary responsibility was to provide guidance so that the City complied with all legal requirements, including the City's charter provisions. The City charter provision requiring a vote on urban renewal creates issues that are unique to Tigard, and we were able to assist the City in making sure that the appropriate process, including voter approval, was followed.

Real Estate

We have assisted the City with the acquisition of several properties over the last three years. Recently, we have assisted the City in acquiring two major properties (Cach and Price) that will be used for water facilities and for park/open space use.

Trends

Bull Mountain

The most obvious trend in our work for the City has been the large volume of work devoted to matters related to Bull Mountain. While we expect the pattern and type of work to change in the future, we anticipate that there will be continued legal disputes relating to Bull Mountain. In the near term, we anticipate continued opposition to any attempts to annex properties in the Bull Mountain area. In the longer term, there may be other issues, including responses to future attempts to incorporate a new city. If a new city is incorporated, revisions to IGAs and possibly new IGAs may be needed.

Land Use Appeals

As discussed above, the City has had an increased number of appeals to LUBA. Many of those

Memorandum re: Information on Representation of City

November 22, 2006

Page 3

appeals involve challenges by opponents of projects who often raise numerous issues, many of which are irrelevant or unsubstantiated. We expect this trend to continue as the number of infill projects increases. While the City can do little to decrease the number of appeals, it can increase the chances of prevailing on appeal by making sure that all decisions are supported by adequate evidence and findings.

Measure 37 Sign (Billboard) Cases

The city has recently received two Measure 37 claims from property owners who wish to place billboards on their property. We believe that future attempts to site billboards in the City will rely on Measure 37 claims. Given the highway frontages within Tigard, the City can probably expect to see additional Measure 37 sign claims.

Tree Protection

For a period of time, tree protection was the primary issue in most land use appeals. Although tree protection remains an issue, decisions from LUBA have clarified the standards and the City is applying its regulations consistent with the LUBA decisions. We anticipate that this will reduce the number of appeals related to trees and will make it easier to defend the City's decisions if and when they are appealed.

Agenda Item #
Meeting Date

3.1.a
December 12, 2006

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Receive and File: Canvass of Votes for City of Tigard Mayor and Council Candidates -- November 7, 2006 Election

Prepared By: Cathy Wheatley *Cathy* Dept Head Okay _____ City Mgr Okay *EAM/for CP*

ISSUE BEFORE THE COUNCIL AND KEY FACTS

Receive and File the official Mayor and City Council election results for the November 7, 2006, election.

STAFF RECOMMENDATION

N/A – Informational item only regarding the official results for the November 7, 2006, election.

KEY FACTS AND INFORMATION SUMMARY

- ♦ When the City Recorder canvasses the votes as required by the Washington County Elections Division, a copy is filed with the City Council at a Council meeting to officially “receive and file” the information.
- ♦ As detailed in the attached “Official Final” Abstract of Votes the following people were elected to serve four - year terms as Mayor and City Councilors beginning January 1, 2007:

Mayor:	Craig E. Dirksen
City Councilor:	Gretchen E. Buehner
City Councilor:	Sydney L. Sherwood

OTHER ALTERNATIVES CONSIDERED

N/A

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

N/A

ATTACHMENT LIST

Washington County Elections Division Abstract of Votes

FISCAL NOTES

The City is not charged for expenses associated with a general election (ORS 254.046).



WASHINGTON COUNTY OREGON

November 27, 2006

City Recorder
City of Tigard
13125 SW Hall Blvd
Tigard OR 97223

Enclosed you will find a copy of the Abstract of Votes for City of Tigard relating to the election held on November 7, 2006. In accordance with ORS 255.295, please canvass the votes and notify the Washington County Elections Division within thirty (30) days of receipt by signing and returning the bottom portion of this letter to:

Washington County Elections Division
3700 SW Murray Blvd. Suite 101
Beaverton OR 97005

Thank you very much.

Sincerely,

Mickie Kawai
Elections Manager

MK/jd



I have canvassed the votes for City of Tigard, relating to the election on November 7, 2006. By signing this canvass letter, I concur with the final results.

AUTHORIZING SIGNATURE

11.29.06
DATE

SUMMARY REPORT

Washington County
General Election
November 7, 2006

Official Final

Run Date:11/27/06 03:49 PM

VOTES PERCENT

VOTES PERCENT

Mayor City Of Tigard

vote for 1

Craig E. Dirksen	10,588	97.40
WRITE-IN.	283	2.60
Over Votes	1	
Under Votes	6,294	

Council City Of Tigard

vote for 2

Joshua Chaney	3,991	19.73
Gretchen E. Buehner	7,738	38.24
Sydney L. Sherwood	8,308	41.06
WRITE-IN.	196	.97
Over Votes	14	
Under Votes	14,085	

Mayor City Of Tualatin

vote for 1

Lou Ogden	4,697	96.51
WRITE-IN.	170	3.49
Over Votes	0	
Under Votes	2,417	

Council Pos 1 City Of Tualatin

vote for 1

Don Funk.	952	19.48
Jay Harris	3,909	79.97
WRITE-IN.	27	.55
Over Votes	2	
Under Votes	2,394	

Council Pos 3 City Of Tualatin

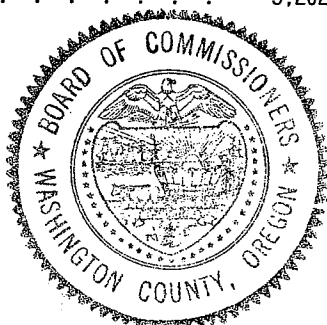
vote for 1

Frank Bubenik	2,582	48.29
Donna Maddux	2,742	51.28
WRITE-IN.	23	.43
Over Votes	1	
Under Votes	1,936	

Council Pos 5 City Of Tualatin

vote for 1

Chris Barhyte	4,020	98.48
WRITE-IN.	62	1.52
Over Votes	0	
Under Votes	3,202	



Council City Of Wilsonville

vote for 2

Alan J. Kirk	51	47.66
Michelle Ripple	56	52.34
WRITE-IN.	0	
Over Votes	0	
Under Votes	103	

Director Zone 1 Soil And Water District

vote for 1

Gerald Ward.	84,563	98.92
WRITE-IN.	924	1.08
Over Votes	2	
Under Votes	89,634	

Director Zone 3 Soil And Water District

vote for 1

NO CANDIDATE FILED	0	
WRITE-IN.	8,539	100.00
Over Votes	0	
Under Votes	166,585	

Director Zone 4 Soil And Water District

vote for 1

John A. McDonald	83,313	98.97
WRITE-IN.	864	1.03
Over Votes	3	
Under Votes	90,943	

Director Zone 5 Soil And Water District

vote for 1

Dan Logan	83,179	99.03
WRITE-IN.	815	.97
Over Votes	5	
Under Votes	91,124	

Director At Large 2 Soil And Water District

vote for 1

Craig Burnham	82,075	98.98
WRITE-IN.	849	1.02
Over Votes	4	
Under Votes	92,195	

Metro Councilor District 4

vote for 1

Tom Cox	24,756	43.98
Kathryn Harrington	31,328	55.65
WRITE-IN.	210	.37
Over Votes	15	
Under Votes	24,506	

NUMBERED KEY CANVASS

RUN DATE:11/27/06 03:47 PM

Washington County
General Election
November 7, 2006

Official Final

REPORT-EL52

PAGE 0072

Mayor City Of Tigard

vote for 1

01 = Craig E. Dirksen

02 = WRITE-IN

VOTES PERCENT

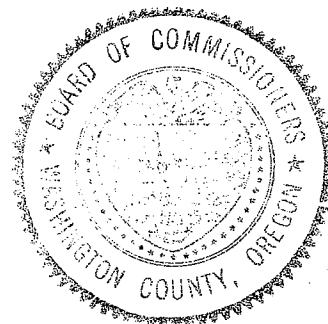
VOTES PERCENT

10,588 97.40
283 2.60

03 = OVER VOTES
04 = UNDER VOTES

1
6,294

	01	02	03	04
0400 400 WASHINGTON SQUARE	901	27	0	662
0402 402 TIGARD/WALNUT ST	407	18	0	261
0403 403 TIGARD/GARDE ST	1607	42	0	960
0404 404 FOWLER SCHOOL	1011	47	1	632
0405 405 TWALITY SCHOOL	1601	43	0	894
0406 406 TIGARD CITY HALL	1214	37	0	663
0408 408 SUMMERFIELD	2176	30	0	1112
0409 409 SUMMERLAKE-WEST	922	18	0	594
0416 416 SUMMERLAKE-EAST	637	14	0	422
0454 454 BULL MT SPLIT	106	7	0	93
0455 455 S TIGARD/PACIFIC HWY	6	0	0	1



NUMBERED KEY CANVASS

RUN DATE:11/27/06 03:47 PM

Washington County
General Election
November 7, 2006

Official Final

REPORT-EL52

PAGE 0073

Council City Of Tigard
vote for 2

01 = Joshua Chaney
02 = Gretchen E. Buehner
03 = Sydney L. Sherwood

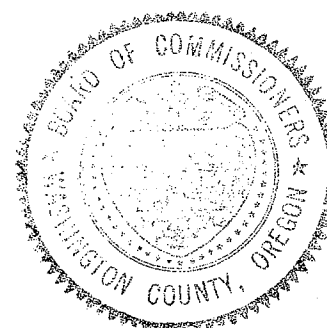
VOTES PERCENT

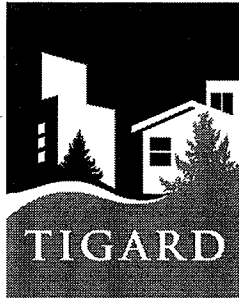
VOTES PERCENT

3,991 19.73 04 = WRITE-IN
7,738 38.24 05 = OVER VOTES
8,308 41.06 06 = UNDER VOTES

196 .97
14
14,085

	01	02	03	04	05	06
0400 400 WASHINGTON SQUARE	382	682	716	14	0	1386
0402 402 TIGARD/WALNUT ST	179	288	337	14	0	554
0403 403 TIGARD/GAARDE ST	591	1235	1275	28	0	2089
0404 404 FOWLER SCHOOL	421	752	828	25	4	1352
0405 405 TWALITY SCHOOL	579	1141	1353	23	0	1980
0406 406 TIGARD CITY HALL	491	832	918	33	0	1554
0408 408 SUMMERFIELD	735	1619	1621	35	6	2620
0409 409 SUMMERLAKE-WEST	321	645	673	16	2	1411
0416 416 SUMMERLAKE-EAST	234	448	483	5	2	974
0454 454 BULL MT SPLIT	58	94	98	3	0	159
0455 455 S TIGARD/PACIFIC HWY	0	2	6	0	0	6





MEMORANDUM

TO: Honorable Mayor & City Council
FROM: Cathy Wheatley, City Recorder *Cathy*
RE: Three-Month Council Meeting Calendar
DATE: December 4, 2006

Agenda Item No. 3-1.6
For Agenda of December 12, 2006

Regularly scheduled Council meetings are marked with an asterisk (*).

December

11	Monday	Goal Setting Meeting – 1-5 p.m., 14565 SW Klipsan Lane
12*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
19*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
25	Monday	Christmas Holiday – City Hall Closed
26*	Tuesday	Council Business Meeting Cancelled

January

1	Monday	New Year's Day Holiday – City Hall Closed
9*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
15	Monday	Martin Luther King Jr. Holiday – City Hall Closed
16*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
23*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
30	Tuesday	Fifth Tuesday Council Meeting – Cancelled.

February

13*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
19	Monday	President's Day Holiday – City Hall Closed
20*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
27*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall

Tigard City Council Tentative Agenda 2006

Agenda Item No. 3.1.c
Meeting of Dec. 12, 2006

Meeting Date: December 12, 2006 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Greeter: Materials Due @ 5: November 28, 2006	Meeting Date: December 19, 2006 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Greeter: Materials Due @ 5: December 5, 2006	Meeting Date: December 26, 2006 Meeting Type/Time: Business/6:30 p.m. Location: City Hall Greeter: Greeter: Materials Due @ 5: December 19, 2006
Study Session	Study Session	Study Session
City Attorney Review - Craig P. - SI Report on Gas Tax Town Halls -Gus D. - 15 min. Reallocate 72nd Ave. Culvert Project Funds to Stormwater Trmt. Facility - Gus. D. - 10 min.	6-7 p.m. Reception for Councilor Wilson	MEETING CANCELLED, 12/19 IS NOW A BUSINESS MEETING
Consent Agenda		
Reallocate 72nd Ave. Culvert Project Funds to design of Commercial St. Stormwater Facility- Healthy Streams Outfall Retrofit - Gus D. LCRB- Award Environmental Assessment/Re- mediation Svcs. Contract - Tom C. LCRB-Amend Commercial St. Design Contract to Create a Reg. Stormwater Treatment Facility - Gus D.	Consent Agenda MOU w/TVFR - Proposed Walnut St. Fire Station - Dennis K. Budget Amend. #10 - Homeland Security Grant Bob S. - RES	Consent Agenda
Business Meeting	Business Meeting	Business Meeting
THS Student Envoy Jasmina Dizdarevik -10 min. Webelo Boy Scouts - 5 min. Topping Kemp Annexation - ORD- PHQJ - Tom C. - 30 min. Code Amendment to Allow Meetings & Events as Conditional Use in Historic Resources in Residential Zones - Legis. Public Hearing - Tom C. - 60 minutes Habitat-Friendly Development Provisions - Com- prehensive Plan Amend./Development Code Amend. - PP - ORD - Legis. Public Hearing - Tom C. - 30 minutes	Chamber President Ralph Hughes - 10 min. Tigard-TriMet Focus Area Partnership - Exec. Dir. Fred Hansen to attend - Duane - 20 min. ODOT Region 1 Manager Jason Tell - Gus 15 min. Amend TMC to Bring Cross-Connection Control Program in Compliance with New State Regulations - ORD - Dennis K. - 10 min. Gas Tax for Greenburg/99W/Main St. Imp. Public Hearing - ORD - Gus D. - 60 min. Council Goal 4th Quarter Update - Craig P./Joanne - 5 min.	
Time Avail: 135 min. - Time Scheduled: 135 min. Time Left: 0 min.	Time Avail: 135 min. - Time Scheduled: 120 min. Time Left: 15 min.	Time Avail: 135 min. - Time Scheduled: 0 min. Time Left: 135 min.

Tigard City Council Tentative Agenda 2007

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	January 9, 2007 Business/6:30 p.m. City Hall December 26, 2006	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	January 16, 2007 Workshop/6:30 City Hall January 2, 2007	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	January 23, 2007 Business/6:30 p.m. City Hall January 9, 2007
Study Session		Workshop Agenda		Study Session	
5:30 - Exec Staff and Council Photos					
Consent Agenda				Consent Agenda	
Appoint Planning Comm. Members - Dick B.RES					
Business Meeting				Business Meeting	
Oaths of Office - Judge O'Brien Select Council President Council Reception Council Photos THS Student Envoy - SI - 10 min.				Chamber of Commerce Rep. - 10 min. Tigard Vision - 2006 Accomplishments Update - Liz and Loreen - 20 min. Council Goal Adoption - 15 min. Sunrise Lane LUBA Remand to revise ordinance re continued application of Goal 5 in Bull Mt. Community Plan - PHQJ -ORD -Tom C. 30 min.	
Time Avail: 135 min. - Time Scheduled: 10 min. Time Left: 125 min.		Time Avail: 200 min. - Time Scheduled: 0 min. Time Left: 200 min.		Time Avail: 135 min. - Time Scheduled: 75 min. Time Left: 60 min.	

Tigard City Council Tentative Agenda 2007

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	January 29, 2007 Special Mtng./6:30 p.m. Tigard-Tualatin School District Office	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	January 30, 2007 5th Tues/7p.m. Community Room at the Library	Meeting Date: Meeting Type/Time: Location: Greeter: Gus Materials Due @ 5:	February 13, 2007 Business/6:30 p.m. City Hall January 30, 2007
Joint Meeting with TTSD		Fifth Tuesday Meeting		Study Session	
The Tigard-Tualatin School District Office is located at 6960 SW Sandburg Street in Tigard					
				Consent Agenda	
				Business Meeting THS Student Envoy - 10 min.	
				Time Avail: 135 min. - Time Scheduled: 10 min. Time Left: 125 min.	

Agenda Item #
Meeting Date

3.2
December 12, 2006

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Reallocation of Healthy Streams Project Funding from a 72nd Avenue Culvert Project for Design of the Proposed Commercial Street Regional Stormwater Treatment Facility

Prepared By: A.P. Duenas Dept Head Okay TC City Mgr Okay ECM

ISSUE BEFORE THE COUNCIL

Council will consider reallocation of \$35,000 in FY 2006-07 Water Quality/Quantity funds from a culvert project on 72nd Avenue to fund the design of a regional stormwater treatment facility along Commercial Street in the Tigard downtown area.

STAFF RECOMMENDATION

That Council approve the reallocation of \$35,000 in Water Quality/Quantity funding from the culvert project to fund the design of the regional stormwater treatment facility.

KEY FACTS AND INFORMATION SUMMARY

As part of the Healthy Streams Plan published in June 2005, each city in the Tualatin River Watershed seeks to develop projects that improve water quality. One of the high-priority goals for Tigard is the retrofitting of stormwater outfalls that were constructed prior to water quality treatment requirements. The design and construction of a regional stormwater detention facility (Outfall Retrofit) that would treat a significant portion of the existing downtown Tigard area (approximately 20 acres) and another 20 acres of an older developed area just north of Highway 99W has been identified as a potential project that can best be accomplished as part of the existing Commercial Street Improvement project. The existing project requires the design and construction of a stormwater treatment facility for the roadway and surrounding drainage area. Expansion of the treatment facility to accommodate a much larger area can be performed at much less cost than creating a standalone project to treat the additional area.

Sufficient funds can be made available and transferred from a culvert improvement project on 72nd Avenue that most likely will not be constructed until summer of 2007 or later. This agenda item requests the reallocation of \$35,000 from that project to fund the design of the regional stormwater treatment facility.

OTHER ALTERNATIVES CONSIDERED

1. Design and construct the project as a standalone project. This would increase costs significantly because the Commercial Street project will also be required to install a treatment facility to accommodate stormwater runoff from Commercial Street and vicinity. Enlarging that facility to accommodate additional acreage only makes sense if it is incorporated into the Commercial Street project.
2. Do not establish the regional facility. This will allow approximately 40 acres of stormwater runoff to continue to discharge directly into Fanno Creek without treatment. It does not support the Healthy Streams goal of the City to improve water quality.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The project supports the concept of the "Green Heart of Tigard" by capturing and treating a significant area of our downtown stormwater that is currently untreated and not so green.

Urban and Public Services – Parks and Greenways Goal 2: "Openspace and greenway areas shall be preserved and protected" The project helps to improve the water quality of Fanno Creek, a greenway in the heart of downtown.

Urban and Public Services – Water and Stormwater Goal 3: "Stormwater runoff is effectively managed." The project would manage stormwater runoff from 40 acres of land in a much more effective manner by treating it before discharging it into Fanno Creek.

ATTACHMENT LIST

None

FISCAL NOTES

The costs to design the project if added to an existing contract would be \$30,000.00. The construction costs for the project, which would be completed in 2007/2008, are estimated to be \$180,000.00 or less depending on the final design chosen. Construction costs would be funded by the Water Quality/Quantity Fund.

Should the project be designed and constructed as a standalone project the design costs are anticipated to be \$60,000 and the construction costs approximately \$225,000. The expected increase in overall cost will be at least \$75,000.

Agenda Item #
Meeting Date

3.3.a.
December 12, 2006

COUNCIL AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Award of Contracts for Environmental Assessment and Remediation Services on an As-Required Basis

Prepared By: GB G. Berry Dept Head Approval: TC City Mgr Approval: EAM for CP

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board approve two contract awards for environmental assessment and remediation services on an as-required basis?

STAFF RECOMMENDATION

That the Local Contract Review Board approve, by motion, the contract awards to the following environmental firms:

- **AMEC Earth and Environmental, Inc., Tigard, OR**
- **GeoEngineers, Portland, OR**

Staff also requests that the City Manager be authorized to execute contracts with the firms for projects up to and including \$50,000. Projects exceeding \$50,000 will be submitted for contract award by the Local Contract Review Board prior to commencement of work.

KEY FACTS AND INFORMATION SUMMARY

- To protect the City under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) innocent landowner defense, land acquisitions generally require an Environmental Site Assessment (ESA) to identify the actual and potential environmental issues that may be present at the property. An environmental services firm is typically contracted to provide the ESA and, depending upon the results of the assessment, may recommend further actions.
- In the past, these environmental services firms have been hired for individual projects through a competitive proposal process. This has proven to be cumbersome, time consuming and expensive. The proposed as-required contracts will enable the selected firms to begin work on proposed acquisitions without the delay and expense of a separate competition for each project. On November 9, 2006, 12 firms submitted their proposals in response to a October 25, 2006 Request for Proposals to provide environmental services. Each proposal was separately evaluated by four staff members. The four highest-rated firms were invited to meet with the selection committee and further elaborate on their proposals.
- After completion of the interviews, two firms were selected for contract award. The two firms were selected based on an evaluation of the firms' proposals, presentations, and the amount of work expected to be assigned to the firms. The selected firms were determined to have the capabilities, staffing, experience and compensation requirements best suited to perform the required services.

- The contracts will be for an initial term of two years after Local Contract Review Board approval and may be renewed for two additional one-year terms. Projects assigned to the firms will be on an as-needed basis. Once a project is assigned to a firm, the firm will prepare and submit a cost proposal to the City for review and approval. To further streamline the process and expedite acquisitions, staff recommends that the City Manager be authorized to execute contracts with the firms for projects up to and including \$50,000. Projects exceeding \$50,000 will be submitted for contract award by the Local Contract Review Board prior to commencement of work.

OTHER ALTERNATIVES CONSIDERED

Reject all proposals and prepare a Request for Proposal for each project.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The proposed contracts will facilitate the completion of street projects meeting the Tigard Beyond Tomorrow Transportation and Traffic Goals of "Improve Traffic Safety" and "Improve Traffic Flow" and park projects meeting the Tigard Beyond Tomorrow Growth and Growth Management goal of "Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community."

ATTACHMENT LIST

None

FISCAL NOTES

Award of the contracts will not require funding until projects are assigned to the selected firms. Funding for assigned projects will be through the respective project budgets.

Agenda Item #
Meeting Date

3.3.6
December 12, 2006

LOCAL CONTRACT REVIEW BOARD AGENDA ITEM SUMMARY
City Of Tigard, Oregon

Issue/Agenda Title Proposed Contract Amendment to the Commercial Street Design Contract to Create a Regional Stormwater Treatment Facility

Prepared By: A.P. Duenas Dept Head Okay TC City Mgr Okay EDM/REP

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Should the Local Contract Review Board (LCRB) approve a contract amendment to the design contract with OTAK, Inc. to provide design services for establishment of a regional stormwater treatment facility to be designed and constructed as part of the Commercial Street Streetscape Project?

STAFF RECOMMENDATION

That the LCRB approve an amendment to the existing contract with OTAK, Inc. for design of a regional stormwater treatment facility that would be constructed as part of that project. The proposed amendment in the amount of \$30,000.00 increases the contract from \$89,919.00 to \$119,919.00. Staff further requests that the contingency amount of \$8,992.00 allocated to the existing contract be increased by \$5,000.00 to provide a new project contingency of \$14,992.00 and a total project commitment of \$133,911.00.

KEY FACTS AND INFORMATION SUMMARY

The City of Tigard seeks to support the Healthy Streams Plan published in June 2005 by developing projects to improve water quality before discharge to streams. One of the high-priority goals for Tigard is the retrofitting of stormwater outfalls that were constructed prior to water quality treatment requirements. The Commercial Street Streetscape Design Project, under design by OTAK, Inc., will include a stormwater treatment facility to address the stormwater runoff from the street and surrounding drainage area. An opportunity exists to size that stormwater treatment facility to treat an additional 40 acres, 20 of which is in the Tigard downtown area and another 20 acres just north of Commercial Street in an older, developed area.

The design and construction of a regional stormwater treatment facility (Outfall Retrofit) to treat that additional 40 acres can best be accomplished as part of the existing design contract for the Commercial Street Improvement project. The existing project can efficiently expand the treatment facility required for the street project to accommodate a much larger area and can do so at much less cost than creating a standalone project to treat the additional area. This agenda item requests LCRB approval to amend the existing contract with OTAK, Inc. to include design of a regional stormwater treatment facility that would be constructed as part of that project.

OTHER ALTERNATIVES CONSIDERED

1. Design and construct the project as a standalone project. This would increase costs significantly because the Commercial Street project will also be required to install a treatment facility to accommodate stormwater runoff from Commercial Street and vicinity. Enlarging that facility to accommodate additional acreage only makes sense if it is incorporated into the Commercial Street project.
2. Use an on-call consultant to design the Outfall Retrofit Project and coordinate with the design consultant on Commercial Street for connections to the facility. This not only would be more expensive overall, but would create the need for extremely close coordination and introduces issues of responsibility for completion of both projects.
3. Do not establish the regional facility. This will allow approximately 40 acres of stormwater runoff to continue to discharge directly into Fanno Creek without treatment. It does not support the Healthy Streams goal of the City to improve water quality.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The project supports the concept of the "Green Heart of Tigard" by capturing and treating a significant area of our downtown stormwater that is currently untreated and not so green.

Urban and Public Services – Parks and Greenways Goal 2: "Openspace and greenway areas shall be preserved and protected" The project helps to improve the water quality of Fanno Creek in the heart of downtown.

Urban and Public Services – Water and Stormwater Goal 3: "Stormwater runoff is effectively managed." The project would manage stormwater runoff from 40 acres of land in a much more effective manner by treating it before discharging it into Fanno Creek.

ATTACHMENT LIST

None

FISCAL NOTES

The design of this regional facility would be funded through Water Quality/Quantity funds. The costs to design the project, if added to the existing design contract, would be \$30,000 plus an additional amount of \$5,000 reserved as a contingency amount for the design work. The availability of \$35,000 to allow for this amendment is contingent upon reallocation of the funds from a culvert project on 72nd Avenue.

Agenda Item #

Meeting Date

12/12/2006

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Topping-Kemp Annexation (ZCA2006-00003)

Prepared By: Emily Eng

Dept Head Approval: RHB

City Mgr Approval: EAM/WRP

ISSUE BEFORE THE COUNCIL

Should the City Council approve annexation of 1.81 acres of land (Zone Change Annexation - ZCA2006-00003) adjacent to SW Spruce Street between SW 72nd Avenue and SW 75th Avenue? Staff requests an emergency clause be adopted to allow the annexation to be effective immediately upon passage of the ordinance.

The proposed territory is contiguous to City limits and can be served by urban services.

STAFF RECOMMENDATION

Adopt the recommended ordinance annexing the subject territory into the City of Tigard.

KEY FACTS AND INFORMATION SUMMARY

State law (ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) and (2)) authorizes a city to annex contiguous territory when owners of land and registered voters in the proposed territory submit a petition to the legislative body of the city. The owners of land and registered voters in the proposed territory have submitted petitions for annexation to the City of Tigard. The City also invited adjacent owners to join the annexation; two have accepted the invitation and joined this annexation.

The proposed annexation territory (Topping-Kemp Annexation) includes four parcels of unincorporated territory in Metzger, totaling 1.81 acres. The proposed territory is contiguous to the City of Tigard along the City's north boundary.

The existing single family homes will remain on three parcels. A pre-school is proposed for one parcel, Tax Lot 2200. If approved, Tax Lot 2200 will undergo a Site Development Review by the City. Because of time constraints, the applicant Westlake Consultants requests that an emergency clause be adopted to allow the annexation to be effective immediately upon passage of the ordinance, rather than 30 days after.

The applicable review criteria for this application are ORS Chapter 222; Metro Code Chapter 3.09; City of Tigard Comprehensive Plan Policies 2 and 10, and Community Development Code Chapters 18.320 and 18.390.

Staff finds that the proposed annexation (ZCA2006-00003) meets all the approval criteria and recommends that the Council approve ZCA2006-00003 by adoption of the attached ordinance.

Key Facts:

1. The proposed territory is contiguous to City limits;
2. Urban services are available to serve the proposed territory;
3. All owners of land and registered voters in the proposed territory have consented to the annexation;
4. The proposed territory is within the City's Urban Growth Boundary and Metro's Urban Growth Boundary; and
5. The proposed territory is within the City's Urban Service Area and Area of Interest.

OTHER ALTERNATIVES CONSIDERED

Not approving ZCA2006-00003 if it does not meet the applicable review criteria.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Growth and Growth Management, Goal #2: Urban services will be provided to all citizens within Tigard's urban growth boundary.

ATTACHMENT LIST

Attachment 1: An Ordinance annexing 1.81 acres, approving Topping-Kemp Annexation (ZCA2006-00003) and withdrawing property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District.

Exhibit A: Legal Description of Proposed Annexation Territory

Exhibit B: Washington County Assessment & Taxation Map for Proposed Annexation Territory

Exhibit C: Petitions for, and Consent to, Annexation to the City of Tigard

Exhibit D: Vicinity Map

Exhibit E: Staff Report to the City Council

FISCAL NOTES

If approved, the proposed annexation territory would not be transferred to the City's tax roll until July 1, 2007. Annexations must be final by March 31 of the same calendar year for the tax year beginning July 1.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 06-_____

AN ORDINANCE ANNEXING 1.81 ACRES, APPROVING TOPPING-KEMP ANNEXATION (ZCA2006-00003), AND WITHDRAWING PROPERTY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT AND DECLARING AN EMERGENCY.

WHEREAS, the City of Tigard is authorized by ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) and (2) to annex contiguous territory upon receiving written consent from owners of land, residents and registered voters in the territory proposed to be annexed; and

WHEREAS, the City of Tigard is authorized by ORS 222.120(5) and 222.520 to withdraw properties which currently lie within the boundary of the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District upon completion of the annexation; and

WHEREAS, the Tigard City Council held a public hearing on December 12, 2006, to consider the annexation of four (4) parcels (WCTM 1S136AC, Tax Lots 2200, 2400, 2500 and 4700) of land located between SW 72nd Avenue and SW 75th Avenue along the north side of SW Spruce Street and withdrawal of said property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District; and

WHEREAS, pursuant to the Tigard Urban Services Agreement, the annexed properties would remain within the Tualatin Valley Water District,

WHEREAS, pursuant to Metro 3.09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and withdrawal of the annexed property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District on December 12, 2006; and

WHEREAS, pursuant to ORS 222.524, the City must declare the withdrawal of annexed properties from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, and the Washington County Vector Control District by Ordinance; and

WHEREAS, the Tigard Development Code states that upon annexation, the zone is automatically changed to the City zoning most closely conforming to the County zoning; and

WHEREAS, the annexation has been processed in accordance with the requirements of Metro 3.09 and has been reviewed for compliance with the Tigard Community Development Code and the Comprehensive Plan and the annexation substantially addresses the standards in Metro 3.09 regulating annexations; and

WHEREAS, the City Council has carefully considered the testimony at the public hearing and determined that withdrawal of the annexed properties from the applicable service districts is in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby annexes the parcels described in the attached Exhibit "A" and shown in Exhibit "B" and withdraws said parcels from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council" as findings in support of this decision; a copy is attached hereto as Exhibit "E" and incorporated herein by this reference.

SECTION 3: City staff is directed to take all necessary measures to implement the annexation, including certified copies of the Ordinance with Metro for administrative processing, filing with state and county agencies as required by law, and providing notice to utilities.

SECTION 4: Pursuant to ORS 222.120(5), the effective date of the withdrawal of the property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District shall be the effective date of this annexation.

SECTION 5: In accordance with ORS 222.180, the annexation shall be effective upon filing with the Secretary of State.

SECTION 6: Council finds that this ordinance is necessary for the peace, health and safety of the City; therefore, an emergency clause is declared and this ordinance shall take effect immediately upon its passage by the Council, signature by the Mayor and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2006.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2006.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

Topping/Kemp Annexation
Case No. ZCA2006-00003
City of Tigard, Oregon

Legal Description

A tract of land in the Northeast $\frac{1}{4}$ of Section 36, Township 1 South, Range 1 West, Willamette Meridian, Washington County, Oregon and being in Lots 5 and 6 of Metzger Acre Tracts, a duly recorded subdivision plat of Washington County and being more particularly described as follows:

Beginning at the southeast corner of said Lot 6, said point being on the northerly right-of-way line of SW Spruce Street, being 30.00 feet from the centerline thereof when measured at right angles and also being on the westerly right-of-way line of SW 72nd Avenue, being 30.00 feet from the centerline when measured at right angles; thence along said northerly right-of-way line of said SW Spruce Street, North $89^{\circ}49'53''$ West, 380.60 feet to the southwest corner of said Lot 5; thence leaving said right-of-way line, along the west line of said Lot 5, North $00^{\circ}05'00''$ West, 176.06 feet to the northwest corner of said Lot 5; thence along the north line of said Lots 5 and 6, North $89^{\circ}54'38''$ East, 380.51 feet to the northeast corner of said Lot 6, said point also being on the westerly right-of-way line of said SW 72nd Avenue, being 30.00 feet from the centerline thereof when measured at right angles; thence along said right-of-way line, South $00^{\circ}06'40''$ East, 177.78 feet to the Point of Beginning of this description.

Also including Parcel 3 of Partition Plat 1998-145.

Containing 1.81 acres, more or less.

ANNEXATION CERTIFIED

BY JS

NOV 13 2006

WASHINGTON COUNTY A & T
CARTOGRAPHY

TO THE COUNCIL OF THE CITY OF TIGARD, OREGON:

We, the undersigned owner(s) of the property described below and/or elector(s) residing at the referenced location(s), hereby petition for, and give consent to, Annexation of said property to the City of Tigard. We understand that the City will review this request in accordance with ORS Chapter 222 and applicable regional and local policies prior to approving or denying the request for Annexation.

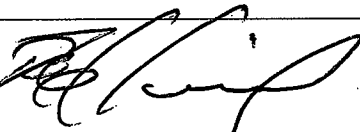

LEGEND:

PO - Property Owner

RV - Registered Voter

OV - Property Owner & Registered Voter

Page 1 of 1

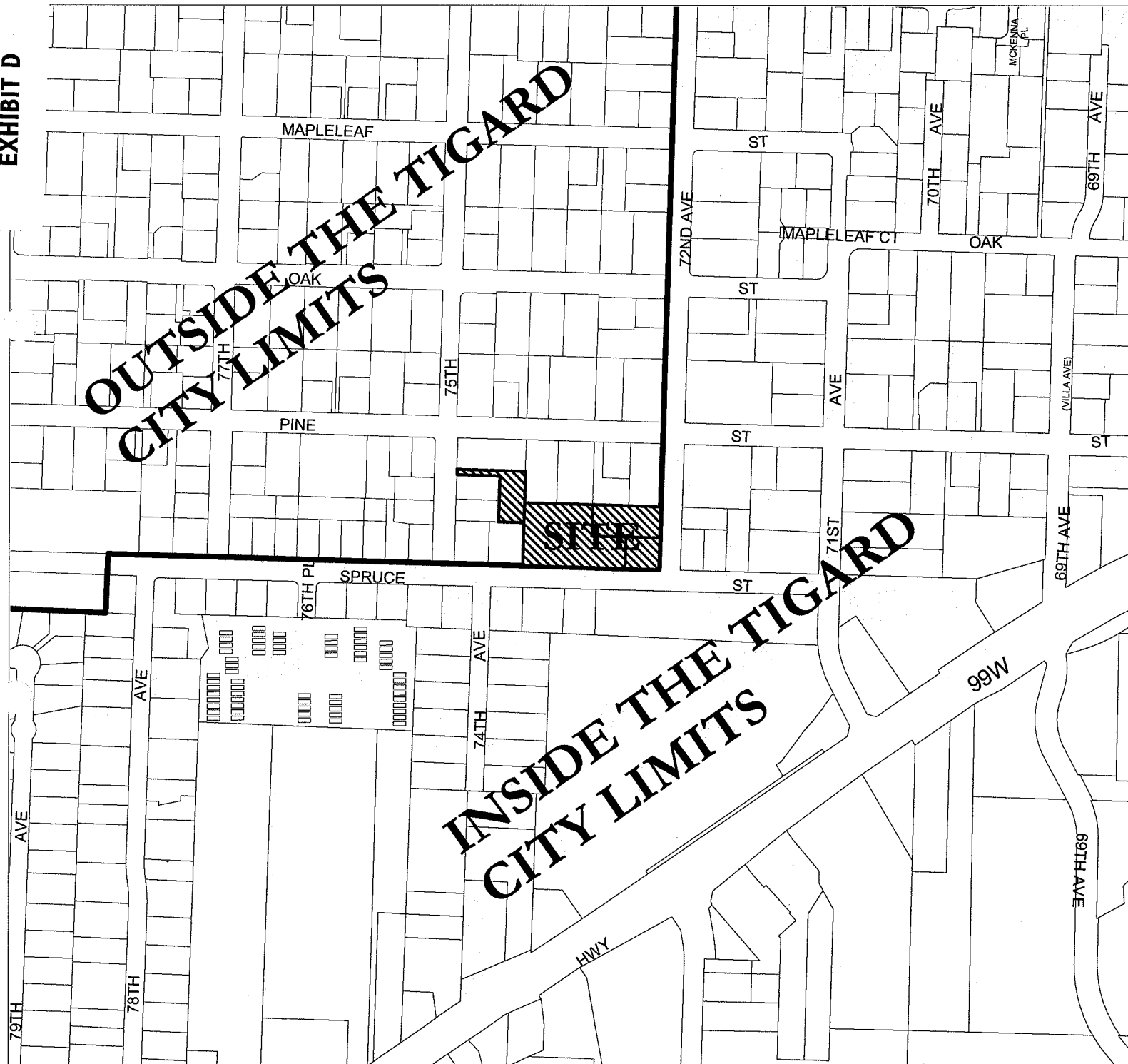
SIGNATURE	PRINTED NAME	I AM A			ADDRESS	PROPERTY DESCRIPTION				DATE
		PO	RV	OV		Township/ Section	Map Number	Tax Lot Number	Precint Number	
	Richard Topping	PO			19765 Derby Street West Linn, OR 97068	1S1	36AC	2200	399	9/19/06
						1S1	36AC	2400	399	
						1S1	36AC	2500	399	
	Katie Kemp	PO			19765 Derby Street West Linn, OR 97068	1S1	36AC	2200	399	9/19/06
						1S1	36AC	2400	399	
						1S1	36AC	2500	399	
 DECEASED	James F. Brown		RV		7303 Spruce Street, #A Portland, OR 97223	1S1	36AC	2200	399	9/19/06
	Robert Allen Halverson		RV		7303 Spruce Street, #B Portland, OR 97223	1S1	36AC	2200	399	
	Nancy L. Naish		RV		10705 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2500	399	9/19/06
	Jason Jarvel Cox		RV		10735 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2400	399	9-12-06
	Raymond Arthur Senkel		RV		10735 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2400	399	9/19/06
	Julie Mae Senkel		RV		10735 SW 72nd Ave. Portland, OR 97223	1S1	36AC	2400	399	
										10 Sep 06

We, the undersigned owner(s) of the property described below and/or elector(s) residing at the referenced location(s), hereby petition for, and give consent to, Annexation of said property to the City of Tigard. We understand that the City will review this request in accordance with ORS Chapter 222 and applicable regional and local policies prior to approving or denying the request for Annexation.

OV - Property Owner & Registered Voter

PAGE ____ OF ____

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CITY of TIGARD

GEOGRAPHIC INFORMATION SYSTEM

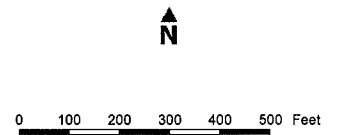
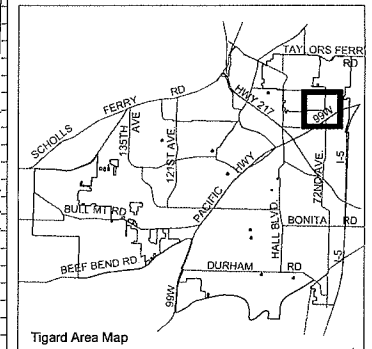
VICINITY MAP

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ZCA2006-00003

=====

TOPPING/KEMP ANNEXATION



Information on this map is for general location only and should be verified with the Development Services Division.
 13125 SW Hall Blvd
 Tigard, OR 97223
 (503) 639-4171
<http://www.ci.tigard.or.us>

Agenda Item: _____

Hearing Date: December 12, 2006 Time: 7:30 PM

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: TOPPING-KEMP ANNEXATION
CASE NOS: Zone Change Annexation (ZCA) ZCA2006-00003

ORIGINAL APPLICANT: Westlake Consultants
 Attn: Lee Leighton
 15115 SW Sequoia Pkwy, Ste 150
 Tigard, OR 97224

OWNERS: Richard Topping and Katie Kemp
 19765 Derby Street
 West Linn, OR 97068

REGISTERED VOTER: James F. Brown
 7303 SW Spruce Street, #A
 Portland, OR 97223

REGISTERED VOTER: Nancy L. Naish
 10705 SW 72nd Avenue
 Portland, OR 97223

REGISTERED VOTERS: Raymond Arthur and Julie Mae Senkel
 10735 SW 72nd Avenue
 Portland, OR 97223

REGISTERED VOTER: Jason Jarvel Cox
 10735 SW 72nd Avenue
 Portland, OR 97223

ADDITIONAL APPLICANT/OWNER/REGISTERED VOTER: Christina Hanson
 10670 SW 75th Avenue
 Portland, OR 97223

ADDITIONAL APPLICANT/OWNER: Charles Hanson
 10670 SW 75th Avenue
 Portland, OR 97223

PROPOSAL: Annexation of four parcels total containing 1.81 acres to the City of Tigard. Property owners Richard Topping and Katie Kemp request annexation of three parcels, with plans to build a pre-school on one parcel. The City invited owners of six adjacent properties to join the annexation. Charles and Christina Hanson accepted the invitation and requested annexation of one parcel. All property owners and living residents have consented to the annexation. Three parcels are zoned OC and one parcel is zoned R-5 in the Metzger area of unincorporated Washington County. Because of time constraints, the applicant requests that the annexation be adopted with an emergency clause to facilitate the site development review for the proposed pre-school.

LOCATION: SW Spruce Street between SW 72nd Avenue and SW 75th Avenue; 7303 SW Spruce Street, 10735 SW 72nd Avenue, 10705 SW 72nd Avenue, 10670 SW 75th Avenue; WCTM 1S136AC, Tax Lots 2200, 2400, 2500 and 4700.

**CURRENT
ZONE:**

Office Commercial District (OC). The intent of this District is to encourage office complex development of institutional, professional, medical/dental, governmental and other office business uses. The purpose is to accommodate the increasing office needs in complexes ranging in size from small to large-scale development. Office uses are the primary use of this District. To serve the employees of the office complex, some accessory commercial and high density residential uses may be permitted through the Planned Development process.

And

R-5 District (Residential 5 units per acre). The R-5 District is intended to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than five (5) units per acre and no less than four (4) units per acre, except as specified otherwise by Section 300-2 or Section 302-6. The primary purpose is to protect existing neighborhoods developed at five (5) units per acre or less. Infill development on all parcels two (2) acres or less may occur only through application of the infill policy (Section 430-72).

**EQUIVALENT
CITY ZONE:**

C-P: Professional/Administrative Commercial District. The C-P zoning district is designed to accommodate civic and business/professional services and compatible support services, e.g., convenience retail and personal services, restaurants, in close proximity to residential areas and major transportation facilities. Within the Tigard Triangle and Bull Mountain Road District, residential uses at a minimum density of 32 units/net acre, i.e., equivalent to the R-40 zoning district, are permitted in conjunction with a commercial development. Heliports, medical centers, religious institutions and utilities are permitted conditionally. Developments in the C-P zoning district are intended to serve as a buffer between residential areas and more-intensive commercial and industrial areas.

And

R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.

**APPLICABLE
REVIEW
CRITERIA:**

ORS Chapter 222, Metro Code Chapter 3.09, Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Council find that the proposed annexation (ZCA2006-00003) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390. Therefore, staff recommends APPROVAL of ZCA2006-00003 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

Site Information and History:

This annexation request includes four (4) parcels in Metzger, located in the area of SW Spruce Street between SW 72nd Avenue and SW 75th Avenue. No right-of-way is included with the request because SW Spruce Street and SW 72nd Avenue are already within the City of Tigard boundaries. One parcel has frontage on SW Spruce Street, two parcels have frontage on SW 72nd Avenue and one parcel is a flag lot with access to SW 75th Avenue. The proposed territory is located within the City of Tigard's Area of Interest and Urban Service Area, which are subject to the policies of the *Urban Planning Area Agreement (2004)* and *Urban Services Agreement (2006)*.

All property within the proposed annexation territory is privately owned. Two owners jointly own three parcels and two owners jointly own one parcel. All other petitioners are residents who do not own land in the proposed territory. Six of the nine petitioners are registered voters in the proposed territory, including one owner. Three petitioners are owners of land, but not registered voters in the proposed territory. All property owners of land and registered voters in the proposed territory have consented to the annexation.

The annexation request was initiated by two property owners (Richard Topping and Katie Kemp) and 5 residents/registered voters, requesting annexation of three parcels (Tax Lots 2200, 2400 and 2500). The City invited property owners of six adjacent parcels to join the annexation. Two owners accepted the annexation (Charles and Christina Hanson), requesting annexation of one parcel, Tax Lot 4700. One owner is a registered voter in the proposed territory.

The annexation was initially requested to facilitate the development of a pre-school. The pre-school is proposed for one parcel, Tax Lot 2200, and will undergo a Site Development Review, if the annexation is approved. Because of time constraints, the applicant, Westlake Consultants, requests that an emergency clause be adopted if the annexation is approved. The emergency clause would allow the annexation to be effective immediately upon passage of the ordinance rather than 30 days after. The applicant had initially coordinated with Washington County for a County review of the proposed pre-school site, but discovered about 7 months into the design process that annexation to the City was required for a sewer connection (see letter in the land use file by Lee Leighton, dated October 31, 2006). If approved, the applicant requests an emergency clause to facilitate the Site Development Review and timely construction of the pre-school. The existing single-family homes will remain on the other three parcels.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

State: ORS Chapter 222

Regional: Metro Code Chapter 3.09

City: Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390.

A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

1. Chapter 18.320.020: Approval Process and Standards.

B. Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and

The City of Tigard Comprehensive Plan's Urbanization Chapter (Policy 10.1.1) defines services as water, sewer, drainage, streets, police, and fire protection. Each service is addressed below.

Policy 10.1.1 further defines capacity as "adequate capacity, or such services to be made available," to serve the parcel "if developed to the most intense use allowed," and "will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard."

Water – Tualatin Valley Water District (TVWD). The subject site is in the Tualatin Valley Water District, which currently serves all tax lots. The applicant has provided a service availability statement signed by Gary Pippin, Manager of Engineering Services, stating that TVWD's service level is adequate to serve Tax Lots 2200, 2400 and 2500. All tax lots, including Tax Lot 4700, will continue to be served by TVWD, as required in Exhibit G of the *Tigard Urban Services Agreement*.

Sewer – Clean Water Services/City of Tigard. The proposed territory has access to sanitary sewer lines along the frontages of SW 72nd Avenue and SW Spruce Street. Connection points along these frontages will allow for sewer line hookup for each of these three parcels. The applicant has provided two sanitary sewer facility plan maps confirming the location of these sewer connections (see Exhibit 7 of the application package in the case file).

Drainage – Clean Water Services/City of Tigard. The proposed territory has access to the City drainage line with catch basins in SW Spruce Street directly across the street. The appropriate water drainage system will be installed in compliance with Clean Water Services and City of Tigard design standards. The applicant has provided two drainage facility plan maps confirming the location of this drainage line (see Exhibit 8 of the application package in the case file).

Streets – City of Tigard Capital Construction & Transportation Division. The applicant indicates that the proposed territory is located within an existing network of local streets that will provide adequate access to and from the subject site, as well as connectivity within the general neighborhood. Those streets include SW Spruce Street, SW 72nd Avenue, SW 74th Avenue, SW 75th Avenue, SW Pine Street and SW Oak Street. The subject property abuts SW Spruce Street and SW 72nd Avenue, both of which are within the City. In addition, the site is within a quarter mile of Tri-met bus lines on SW Pacific Highway and will be adequately served by public transportation.

Police – City of Tigard Police Department. An email from Jim Wolf, Public Information Officer of the Tigard Police Department confirms that the proposed project would not have a serious impact on police services. In addition, Wolf states, "Understanding that the location is presently outside the city limits; the annexation would not appear to lend any confusion to police responding to service calls in that area."

Fire – Tualatin Valley Fire and Rescue (TVF&R). Concerning Tax Lots 2200, 2400 and 2500, the applicant has provided a statement of service availability signed by Jerry Renfro stating that it has "personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations." All properties within the proposed annexation territory are currently served by TVF&R and will continue to be served by TVF&R upon annexation.

Based upon this review, staff finds that all public services (as defined by the Comprehensive Plan) are available to the proposed annexation territory and all public services have sufficient capacity to provide service to the proposed annexation territory.

2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.

Three Comprehensive Plan policies apply to the proposed annexation: 2.1.1, 10.1.1., and 10.1.2. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

Policy 2.1.1: Citizen Involvement. The City shall maintain an ongoing citizen involvement program and shall assure that citizens will be provided an opportunity to be involved in all phases of the planning process.

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed and published notice of the public hearing as follows. The City posted the hearing notice at four public places on October 27, 2006: Tigard Library, Tigard City Hall, Tigard Permit Center, and in the vicinity of the proposed territory on Spruce Street. The City published notice of the hearing in *The Tigard Tualatin Sherwood Times* for two successive weeks (November 23, 2006 and November 30, 2006) prior to the December 12, 2006, public hearing. The City also mailed notice to all interested parties and surrounding property owners within 500 feet on November 15, 2006. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties in the East area on November 15, 2006, including former members of Citizen Involvement Team East. Staff finds that this policy is met.

Policy 10.1.1: Urbanization. Prior to the annexation of land to the City of Tigard, a) the City shall review each of the following services as to adequate capacity, or such services to be made available, to serve the parcel if developed to the most intense use allowed, and will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard: 1. Water; 2. Sewer; 3. Drainage; 4. Streets; 5. Police; and 6. Fire Protection.

As addressed under 18.320.020 above, adequate service is available to the proposed annexation territory. Upon annexation, three parcels within the proposed territory will be zoned C-P, a Professional Commercial zone, with a minimum commercial lot size of 6,000 square feet; One parcel will be zoned R-4.5, a low-density residential zone with a minimum lot size of 7,500 square feet. The most intense use of the proposed territory is estimated to be 9 commercial lots and 1 residential lot¹. However, the intended use is for a pre-school on one lot, with the existing single-family homes remaining on the other three lots.

If any of the properties develop, they will be required to connect to public service facilities, such as sewer, storm drainage and water, and provide the necessary street improvements. Based on findings by the applicant and City staff, there is adequate capacity to serve the annexation area (water, sewer, drainage, streets, police, fire protection) if developed to the most intense uses allowed, and it will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

The City of Tigard department of Public Works has reviewed the annexation proposal and has no comments. The Tualatin Valley Water District currently serves the proposed territory and will continue to serve it. The Police Department reviewed the proposal and has not indicated that serving the proposed annexation would reduce the level of police services. The Engineering Department was provided the opportunity to comment on the annexation, but did not comment. Tualatin Valley Fire and Rescue (TVF&R) currently serves the proposed territory and was provided the opportunity to comment, but did not comment. Staff concludes that there is adequate capacity to serve the proposed territory (water, sewer, drainage, streets, police, fire protection) if developed to the most intense use allowed, and will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

b) If required by an adopted capital improvements program ordinance, the applicant shall sign and record with Washington County a nonremonstrance agreement regarding the following: 1. The formation of a local improvement district (L.I.D.) for any of the following services that could be provided through such a district. The extension or improvement of the following: a) Water, b) Sewer, c) Drainage, and d) Streets. 2. The formation of a special district for any of the above services or the inclusion of the property into a special service district for any of the above services.

¹ Using formula for density calculation in Chapter 18.715 of the Development Code.

This criterion does not apply. No capital improvements program requires a nonremonstrance agreement for this area. Some urban services are already available for the proposed annexation territory; others are available nearby and would require connections from the proposed annexation area. However, these public facility requirements may be assigned as part of any development review when an application is submitted.

c) The City shall provide urban services to areas within the Tigard Urban Planning Area or within the Urban Growth Boundary upon annexation.

The proposed territory is not within the Tigard Urban Planning Area; however, it is within the City's Urban Growth Boundary. Upon annexation, urban services will be provided as outlined in the UPAA, TUSA and current City policies. Staff finds that this policy is met.

Policy 10.1.2: Urbanization. Approval of proposed annexations of land by the City shall be based on findings with respect to the following: a) The annexation eliminates an existing "pocket" or "island" of unincorporated territory; or, b) The annexation will not create an irregular boundary that makes it difficult for the police in an emergency situation to determine whether the parcel is within or outside the City; c) The Police Department has commented upon the annexation; d) the land is located within the Tigard Area of Interest and is contiguous to the City boundary; e) The annexation can be accommodated by the services listed in 10.1.1(a).

- a) The proposed annexation territory is not a pocket or island of unincorporated territory itself; however, it can be considered part of a large pocket of unincorporated territory surrounded by City of Tigard boundaries. Therefore, the proposed annexation would help reduce a pocket of unincorporated territory.
- b) The proposed annexation will not create an irregular boundary that will make it difficult for the police to locate a parcel in an emergency situation. Three lots have frontage on City streets. One parcel does not have frontage on a City street, but is located within a defined network of streets adjacent to City boundaries. Jim Wolf, Public Information Office in the Police Department states, "Understanding that the location is presently outside the city limits, the annexation would not appear to lend any confusion to police responding to service calls in that area."
- c) The City of Tigard Police Department has commented and has no objections to the proposed annexation.
- d) The *UPAA (2004)* includes the proposed annexation territory within Tigard's Area of Interest. The proposed annexation territory is contiguous to the City on two sides, where it abuts SW Spruce Street and SW 72nd Avenue.
- e) Lastly, as section 10.1.1.(a) demonstrated, the annexation can be accommodated by the following services: water, sewer, drainage; streets; police; and fire protection.

Items a through e have been met. Therefore, staff finds that the proposed annexation meets Policy 10.1.2.

Policy 10.1.3: Urbanization. Upon annexation of land into the City which carries a Washington County zoning designation, the City of Tigard shall assign the City of Tigard zoning district designation which most closely conforms to the county zoning designation.

Chapter 18.320.020 C of the Community Development Code provides specifics on this conversion.

Three parcels within the proposed annexation territory are zoned OC (Office Commercial District) by Washington County. One parcel within the proposed annexation territory is zoned R-5 (Residential 5 units per acre).

Table 320.1 summarizes the conversion of the County's plan and zoning designations. As this is a Zone Change Annexation (ZCA) application, upon approval and execution of the proposed annexation, three parcels will assume C-P (Professional Commercial) zoning and one parcel will assume R-4.5 (7,500 square foot minimum lot size) zoning, based on Table 18.320.1 of the code (below). The City's Comprehensive Plan designation "Professional Commercial" will apply to three parcels. The Comprehensive Plan designation "Low-Density Residential" will apply to one parcel.

**TABLE 320.1
CONVERSION TABLE FOR COUNTY AND CITY PLAN AND ZONING DESIGNATIONS**

Washington County Land Use Districts/Plan Designation	City of Tigard Zoning	City of Tigard Plan Designation
R-5 Res. 5 units/acre	R-4.5 SFR 7,500 sq. ft.	Low density 1-5 units/acre
R-6 Res. 6 units/acre	R-7 SFR 5,000 sq. ft.	Med. density 6-12 units/acre
R-9 Res. 9 units/acre	R-12 Multi-family 12 units/acre	Med. density 6-12 units/acre
R-12 Res. 12 units/acre	R-12 Multi-family 12 units/acre	Med. density 6-12 units/acre
R-15 Res. 15 units/acre	R-25 Multi-family 25 units/acre	Medium-High density 13-25 units/acre
R-24 Res. 24 units/acre	R-25 Multi-family 25 units/acre	Medium-High density 13-25 units/acre
Office Commercial	C-P Commercial Professional	CP Commercial Professional
NC Neighborhood Commercial	CN Neighborhood Commercial	CN Neighborhood Commercial
CBD Commercial Business District	CBD Commercial Business District	CBD Commercial Business District
GC General Commercial	CG General Commercial	CG General Commercial
IND Industrial	I-L Light Industrial	Light Industrial■

Chapter 18.320.020

C. Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar. A zone change is required if the applicant requests a comprehensive plan map and/or zoning map designation other than the existing designations. (See Chapter 18.380). A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.

As the previous section demonstrated, the City of Tigard C-P zoning district is the most similar to Washington County's OC zoning district and the City's R-4.5 zoning district is most similar to the County's R-5 district. Three parcels within the proposed territory are currently zoned OC and, upon annexation, will automatically become C-P in both zoning and comprehensive plan designation. One parcel is zoned R-5 and will automatically become R-4.5 in zoning and Low-density Residential in comprehensive plan designation. This zone conversion will occur concurrently with the annexation process. There have been no requests for zoning other than the zoning most similar to the designated County zones.

City of Tigard Community Development Code

2. Chapter 18.390.060: Type IV Procedure

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020(B), which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 10 days prior to the hearing by mail and to publish newspaper notice; the City mailed notice on November 15, 2006, and published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (November 23, 2006, and November 30, 2006,) prior to the December 12, 2006, public hearing.

Additionally, Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;

The City's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. As reviewed above, the annexation proposal meets the existing Comprehensive Plan policies and therefore is in compliance with state planning goals.

2. Any federal or state statutes or regulations found applicable;

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125, ORS 222.170(1) and (2)) allows for a city to annex contiguous territory when owners of land, residents and registered voters in the proposed annexation territory submit a petition to the legislative body of the city. ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

All owners of land within the proposed territory, living residents and registered voters have submitted signed petitions for annexation to the City. The proposed annexation territory is contiguous to the City's boundary on two sides, along SW Spruce Street and SW 72nd Avenue.

The City published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (November 23, 2006, and November 30, 2006,) prior to the December 12, 2006, public hearing and posted the hearing notice at four public places on October 27, 2006: Tigard Library, Tigard City Hall, Tigard Permit Center, and in the vicinity of the proposed territory on Spruce Street. Staff finds that the provisions of ORS 222 have been met.

3. Any applicable METRO regulations;

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Note that the report is available 15 days before the hearing (November 27, 2006, for a December 12, 2006, hearing). Staff has determined that the applicable METRO regulations (Metro Code 3.09.040(b) &(d)) have been met based on the following findings:

Metro 3.09.040 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

As addressed previously in this report, urban services are available to the affected territory.

(2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;

As addressed previously in this report, the annexation proposal complies with all applicable provisions of urban service provider agreements, *UPAA (2004)*; and *TUSA (2006)*.

(3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;

As addressed previously in this report, the annexation proposal complies with all applicable policies of the City of Tigard Comprehensive Plan and urban service provider agreements (*UPAA (2004)* and *TUSA (2006)*). The proposed annexation territory is within the Urban Growth Boundary and subject to the Regional Framework Plan and Urban Growth Management Functional Plan provisions. There are no specific applicable standards or criteria for boundary changes in the Regional Framework Plan or the Urban Growth Management Functional Plan. However, the City's Comprehensive Plan and Development Code have been amended to comply with Metro functional plan requirements. By complying with the Development Code and Comprehensive Plan, the annexation is consistent with the Functional Plan and the Regional Framework Plan.

(4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

The proposed territory will remain within Washington County but will be required to be withdrawn from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and the Washington County Vector Control District upon completion of the annexation. The proposed territory will remain in the Tualatin Valley Water District.

(5) The proposed effective date of the decision.

The public hearing will take place December 12, 2006. The proposed annexation will be presented with a request for an emergency clause so that the annexation may be effective immediately upon passage of the ordinance. If the Council adopts findings to approve ZCA2006-00003, the effective date of the annexation will be December 12, 2006.

Metro Code 3.09.040 (d)

(d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065;

As addressed previously in this application, the proposed annexation complies with all applicable provisions of urban service provider agreements (*UPAA (2004)* and the *TUSA (2006)*). The proposed annexation is in the Area of Interest and Urban Service Area, which are subject to the *UPAA* and *TUSA*. The agreements state that the County and City will be supportive of annexations to the City. Therefore, the proposed annexation is consistent with these agreements.

2. Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

The *UPAA (2004)* includes the proposed annexation territory. The City has followed all processing and notice requirements in the *UPAA*, providing Washington County with 45-day notice prior to the public hearing. The agreement states that "so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City." The annexation proposal is consistent with this agreement.

3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans;

As previously stated in this report, this proposal meets all applicable City of Tigard Comprehensive Plan provisions. This criterion is satisfied.

4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;

This criterion was addressed under Metro Code 3.09.040(b). By complying with the City of Tigard Community Development Code and Comprehensive Plan, the annexation is consistent with the Functional Plan and the Regional Framework Plan.

5. Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;

The proposed annexation will not interfere with the provision of public facilities or services because it is consistent with the terms of the *TUSA (2006)*, which ensures the timely, orderly, and efficient extension of public facilities and urban services; it is contiguous to existing city limits and services; and lastly, urban services are available to the proposed annexation territory and have not been found to significantly reduce existing service levels.

6. The territory lies within the Urban Growth Boundary; and

The proposed territory is within Metro's Urban Growth Boundary.

7. Consistency with other applicable criteria for the boundary change in question under state and local law.

In previous sections, this report reviewed the proposal's consistency with other applicable criteria and found it to be consistent.

(Tigard CDC 19.390.060)

4. Any applicable comprehensive plan policies; and

As demonstrated in previous sections of this report, the proposed annexation is consistent with, and meets, all applicable comprehensive plan policies.

5. Any applicable provisions of the City's implementing ordinances.

There are no specific implementing ordinances that apply to this proposed annexation. The Development Code (Chapter 18 of the City Code) will apply to the proposed territory if or when it develops.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Public Works Department reviewed the proposal and did not have comments or objections.

The City of Tigard Police Department has reviewed the proposal and provided the following comments:

"In reviewing the proposed annexation plans, Tigard Police at this time, does not foresee any issues. In addition, it does not appear that the proposed development would have serious impact on police services as we are currently providing. Understanding that the location is presently outside the city limits; the annexation would not appear to lend any confusion to police responding to service calls in that area"

RESPONSE: Comments by the Police Department have been considered in staff's review of this proposal.

The City of Tigard Long-Range Planning Division has reviewed the proposal and asked the following questions:

1. Are day care facilities an outright permitted use within the City's equivalent land use designation? Conditional Use?
2. In the C-P zone, what is the Bull Mountain Road District?
3. County R-5 includes reference to "infill policy." Is this a Metzger Area Plan specific policy or for all County R-5?

RESPONSE:

Concerning Question #1, day care facilities are permitted outright in the City of Tigard's C-P zone, the equivalent of the County OC zone. The applicant will call the day care facility a "pre-school"; however, by definition, it is a day care facility.

Concerning Question #2, the Bull Mountain Road District is a misprint. The code is referring to a zone on Bull Mountain Road which allows for residential uses in conjunction with commercial development.

Concerning Question #3, the residential parcel will assume the equivalent City zoning of R-4.5, in which case only City code provisions will apply. The provisions of the County's infill policy (Section 430-72) are not specific to the Metzger area and will no longer apply.

The City of Tigard Engineering Department was provided the opportunity to comment, but did not comment.

SECTION VIII. AGENCY COMMENTS

Tualatin Valley Fire and Rescue, which currently serves the proposed territory, has been given the opportunity to comment, but did not comment. However, the applicant has submitted a statement of service availability stating that it has "personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations."

The Beaverton School District has reviewed the proposal and states, "The proposed territory is outside of the Beaverton School District boundaries and we do not anticipate any impacts to BSD facilities."

SECTION IX. PUBLIC COMMENTS

The City mailed notice surrounding property owners within 500 feet and all interested parties on November 15, 2006. Staff did not receive any written comments.


PREPARED BY: Emily Eng
Assistant Planner

11/27/2006
DATE


REVIEWED BY: Richard Bewersdorff
Planning Manager

11/27/2006
DATE

Agenda Item #

Meeting Date

December 12, 2006

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Legislative Public Hearing- Code Amendment to Allow Meetings and Events as a Conditional Use in Historic Resources in Residential Zones (DCA2006-00005).

Prepared By: Sean Farrelly *SF* Dept Head Approval: *TC* City Mgr Approval: *EAM for CP*

ISSUE BEFORE THE COUNCIL

Should the Council approve the Development Code Amendment to add a definition of Meeting and Event Use to the Code and allow Meetings and Events as a Conditional Use in properties with a Historic Overlay and/or on the National Register of Historic Places, in Residential Zones?

STAFF RECOMMENDATION

The Planning Commission voted unanimously to recommend denial of the proposed code amendment. At the hearing it was discussed that it was unlikely any additional revisions to the proposed amendment would result in language providing a better balance of the interests of owners of historic properties and their residential neighbors.

If the City Council can find that the legislative amendment will ensure compatibility with the surrounding residential uses, and provides adequate guidelines for approval, the Council should direct staff to prepare an ordinance adopting the attached text amendments (**Attachment 1**).

KEY FACTS AND INFORMATION SUMMARY

To encourage the protection of Tigard's historic resources, the City Council directed staff to investigate ways in which owners of historic properties could generate income to assist in funding preservation and restoration, while balancing the interests of neighboring properties in Residential Zones. The proposed code amendment would amend the Use Classifications Chapter (18.130), Conditional Use Chapter (18.330), Residential Zoning Districts Chapter (18.510), and Historic Overlay Chapter (18.740) of the Tigard Community Development Code. The conditions to allow this use in Residential Zones would include limits on the number of events and attendees, noise, and parking. The proposed amendment would allow a total of 18 events could be held annually: 12 events with up to 40 attendees and 6 events with up to 200 attendees.

All required notices, including newspaper publication and notices to properties within 500 feet of a historic resource, are complete. On November 20, 2006, the Tigard Planning Commission held a public hearing to discuss the proposed changes. Public testimony is outlined in the Planning Commission minutes (**Attachment 2**). Written correspondence is found in **Attachment 4**. Based on the staff report and the testimony given before and during the public hearing, the Commission recommended denial of the amendment by a unanimous vote. Individual Commissioners gave different reasons for their recommendation, including the impact of the proposed use on noise level and parking in the surrounding residential neighborhoods; and the perception that this code amendment will benefit only one person.

OTHER ALTERNATIVES CONSIDERED

None.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Not Applicable.

ATTACHMENT LIST

- Attachment 1:** Proposed Code Text Changes
Attachment 2: Draft November 20, 2006 Planning Commission Minutes
Attachment 3: Staff Report to the Planning Commission
Attachment 4: Public Comment Correspondence

FISCAL NOTES

Not Applicable.

City of Tigard
DCA 2006-00005

**SUMMARY OF PROPOSED AMENDMENTS TO THE COMMUNITY
DEVELOPMENT CODE**

Proposed Code Amendment to Allow Meeting and Event Uses as a Conditional Use in Historic Resources in Residential Zones

ADDITIONS indicated by *Italics and Bold*

PROPOSED DEVELOPMENT CODE TEXT CHANGES:

Chapter 18.130 USE CLASSIFICATIONS

Section 18.130.020 Listing of Use Categories

C. Commercial Use types

9. Meeting and Event Use: Activities including parties, weddings, luncheons, meetings, charitable fund raising, or other gatherings for direct or indirect compensation.

18.330 CONDITIONAL USE

Section 18.330.050 Additional Development Standards for Conditional Use Types

21. Meeting and Event Uses in Residential Zones

- a. The property where the use will occur must be in a Historic Overlay zone and/or on the National Register of Historic Places.*
- b. Yearly maximum number of events: A maximum of 18 meetings or events may be held per year.*
- c. Maximum number of persons attending a meeting or event: The maximum number of persons attending an event shall be 40, provided however, that up to 200 persons may attend up to 6 meetings or events per year. The number of persons attending an event shall include all persons present on the property and participating in any way in the meeting or event, including hosts, workers, volunteers, as well as the guests and invitees.*
- d. Hours of operation: The meetings or events may be held between 7 AM and 9 PM. All activities related to the meetings or events, including clean-up must cease by 9 PM.*
- e. Lighting: No light source used for the meetings or events shall be directed at another property. All light sources shall be screened, hooded, or covered.*
- f. Sound systems: Outdoor amplified sound systems for the meetings or events shall not be permitted.*

shall not be permitted.

g. Noise: For the purposes of noise regulation, the provisions of Section 7.40.130 through 7.40.210 of the Tigard Municipal Code shall apply.

h. Parking: A parking plan for each meeting or event shall be submitted to the Community Development Department one week prior to the event. This plan shall include a description of the event, the number of expected guests, evidence of the availability of on- street and off-street parking, and signed agreements with any providers of off-street parking for guests.

i. No signs related to the conditional use are permitted.

j. The Hearings Officer may impose additional site specific conditions on the approval of the conditional use, as referenced in Section 18.330.30.B.

k. Violations of the conditions of approval or code provisions could result in the revocation of the conditional use permit by the Director.

l. The conditional use is allowed to continue so long as the property retains its Historic Overlay and/or National Register of Historic Places designation.

Chapter 18.740 HISTORIC OVERLAY

Section 18.740.030 General Provisions

E. Incentives for maintenance. In an effort to assist in the upkeep and restoration of properties with a Historic Overlay designation and/or listing on the National Register of Historic Places, Meeting and Event Uses may be permitted, subject to Conditional Use approval, in all residential zones.

Chapter 18.510 RESIDENTIAL ZONING DISTRICTS

<p>(Add Historic Place Meeting and Event Use as a Conditional Use in all Residential Districts. Footnote to indicate applicable to Historic Overlay/National Register of Historic Places only.)</p>

TABLE 18.510.1
USE TABLE

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
RESIDENTIAL								
Household Living	P	P	P	P	P	P	P	P
Group Living	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}
Transitional Housing	N	N	N	N	N	C	C	C
Home Occupation	R ²	R ²	R ²	R ²	R ²	R ²	R ²	R ²
HOUSING TYPES								
Single Units, Attached	N	N	N	R ⁸	R ^{9/C}	P	P	P
Single Units, Detached	P	P	P	P	P	P	P	P
Accessory Units	R ³	R ³	R ³	R ³	R ³	R ³	R ³	R ³
Duplexes	N	N	C	C	P	P	P	P
Multi-Family Units	N	N	N	N	N	P	P	P
Manufactured Units	P	P	P	P	P	P	P	P
Mobile Home Parks/Subdivisions	N	N	C	C	P	P	P	P
CIVIC (INSTITUTIONAL)								
Basic Utilities	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴
Colleges	C	C	C	C	C	C	C	C
Community Recreation	C	C	C	C	C	C	C	C
Cultural Institutions	N	N	C	C	C	C	N	N
Day Care	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵
Emergency Services	C	C	C	C	C	N	N	N
Medical Centers	N	N	C	C	C	C	C	C
Postal Service	N	N	N	N	N	N	N	N
Public Support Facilities	P	P	P	P	P	P	P	P
Religious Institutions	C	C	C	C	C	C	C	C
Schools	C	C	C	C	C	C	C	C
Social/Fraternal Clubs/Lodges	N	N	N	N	N	C	C	C
COMMERCIAL								
Commercial Lodging	N	N	N	N	N	N	N	N
Eating and Drinking Establishments	N	N	N	N	N	N	N	N
Entertainment-Oriented								
- Major Event Entertainment	N	N	N	N	N	N	N	N
- Outdoor Entertainment	N	N	N	N	N	N	N	N
- Indoor Entertainment	N	N	N	N	N	N	N	N
- Adult Entertainment	N	N	N	N	N	N	N	N
General Retail								
- Sales-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
- Personal Services	N	N	N	N	N	N	R ¹¹	R ¹¹
- Repair-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
- Bulk Sales	N	N	N	N	N	N	N	N
- Outdoor Sales	N	N	N	N	N	N	N	N
- Animal-Related	N	N	N	N	N	N	N	N

TABLE 18.510.1 (CON'T)

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
<i>Historic Place Meetings and Events</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>
Motor Vehicle Related								
- Motor Vehicle Sales/Rental	N	N	N	N	N	N	N	N
- Motor Vehicle Servicing/Repair	N	N	N	N	N	N	N	N
- Vehicle Fuel Sales	N	N	N	N	N	N	N	N
Office	N	N	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N	N	N
Non-Accessory Parking	N	N	N	N	N	C ¹⁰	C ¹⁰	C ¹⁰
INDUSTRIAL								
Industrial Services	N	N	N	N	N	N	N	N
Manufacturing and Production								
- Light Industrial	N	N	N	N	N	N	N	N
- General Industrial	N	N	N	N	N	N	N	N
- Heavy Industrial	N	N	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N	N	N
Research and Development	N	N	N	N	N	N	N	N
Warehouse/Freight Movement	N	N	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N	N
OTHER								
Agriculture/Horticulture	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶	N	N	N
Cemeteries	N	N	C	C	C	N	N	N
Detention Facilities	N	N	N	N	N	N	N	N
Heliports	N	N	N	N	N	N	N	N
Mining	N	N	N	N	N	N	N	N
Wireless Communication Facilities	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷
Rail Lines/Utility Corridors	C	C	C	C	C	C	C	C

P=Permitted

R=Restricted

C=Conditional Use

N=Not Permitted

¹Group living with five or fewer residents permitted by right; group living with six or more residents permitted as conditional use.

²Permitted subject to requirements Chapter 18.742.

³Permitted subject to compliance with requirements in 18.710.

⁴Except water and storm and sanitary sewers, which are allowed by right.

⁵In-home day care which meets all state requirements permitted by right; freestanding day care centers which meet all state requirements permitted conditionally.

⁶When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.

⁷See Chapter 18.798, Wireless Communication Facilities, for requirements for permitted and restricted facilities.

⁸Attached single-family units permitted only as part of an approved planned development.

⁹Permitted by right if no more than five units in a grouping; permitted conditionally if six or more units per grouping.

¹⁰Only park-and-ride and other transit-related facilities permitted conditionally.

¹¹Limited to ground-floor level of multi-family projects, not to exceed 10% of total gross square feet of the building.

¹²***Limited to properties that have a Historic Overlay and/or are on the National Register of Historic Places.***

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Proposed ADDITIONS indicated by *Italics and Bold*

CHAPTER 18.130 USE CLASSIFICATIONS

Sections:

- 18.130.010 Purpose**
- 18.130.020 Listing of Use Classifications**
- 18.130.030 Unlisted Use: Authorization of Similar Use**

18.130.010 Purpose

- A. Purpose. The purpose of this chapter is to classify uses into a limited number of use types on the basis of common functional, product or compatibility characteristics, thereby providing a basis for the regulation of uses in accordance with criteria which are directly relevant to the public interest.

18.130.020 Listing of Use Categories

A. Residential use types.

1. Household Living: Living facilities for small groups (households) of people who are related or unrelated, featuring self-contained units including facilities for cooking, eating, sleeping and hygiene. Tenancy is longer than one month. Includes most types of senior housing, e.g., congregate care, assisted living, if residents live in self-contained units. The maximum number of people who may reside in any given dwelling unit shall be determined by the Uniform Building Code.
2. Group Living: Living facilities for groups of unrelated individuals which includes at least one person residing on the site who is responsible for supervising, managing, monitoring and/or providing care, training or treatment of residents. Larger group living facilities may also be characterized by shared facilities for eating, hygiene and/or recreation. Examples include nursing/convalescent homes, residential care/treatment facilities; sororities/fraternities and convents/monasteries. Tenancy is longer than one month. Does not include detention and post-detention facilities (see 18.130.020 E.3., Detention Facilities).
3. Transitional Housing: Public or non-profit living facilities with same characteristics as Group Living but with tenancy less than one month. Examples include homeless shelters, women's/children's shelters, drug/alcohol treatment facilities. Excludes private, profit-making short-term housing (see 18.130.020 C.1., Commercial Lodging); and detention and post-detention facilities (see 18.130.020 E.3., Detention Facilities).

B. Civic use types.

1. Basic Utilities: Community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit stations.

2. Colleges: Institutions of higher education with/without dormitories. Excludes private, profit-making trade and vocational schools (see 18.130.020 C.1., Personal Services).
3. Community Recreation: Public or non-profit recreational, social and multi-purpose facilities. Examples include: community centers, senior centers, indoor and outdoor tennis/racquetball and soccer clubs, indoor/outdoor swimming pools, parks, playgrounds, picnic areas and golf courses. Excludes commercial recreational facilities (see 18.130.020 3.C.3.c, Indoor Entertainment).
4. Cultural Institutions: Public or non-profit cultural facilities including libraries, museums and galleries. May include incidental and subordinate commercial uses such as a gift shop, bookstore, and limited food and beverage services.
5. Day Care: As defined by Oregon State Statute:
 - a. Family Day Care: Provision of day care services for children, with or without compensation, in the home of the caregiver. May provide care for six or fewer children full-time, with an additional four or fewer full-time or part-time children. During the school year, a family day care provider may care for four additional children on days and during the hours that school is not in session. Such children must be at least an age eligible for first grade. During summer vacation, a provider may care for four additional day care children of any age up to a maximum of four hours per day. No more than a total of 10 children including the provider's own children may be present at any one time.
 - b. Day Care Group Home: Day care facility in which care is provided in the home of the caregiver, with or without compensation, for 7-12 children. It is subject to certification by the Children's Services Division.
 - c. Institutional Day Care: Day care facility operated with or without compensation that is certified by the state to care for 13 or more children, or a facility that is certified to take care of 12 or fewer children and located in a building constructed as other than a single-family dwelling. Typical uses include nursery schools, pre-schools, kindergartens, before- and after-school care facilities or child development centers.
6. Emergency Services: Public safety facilities including police and fire stations, emergency communications and ambulance services.
7. Medical Centers: Facilities providing inpatient, outpatient and emergency and related ancillary services to the sick and infirm. Usually developed in campus setting. Accessory uses may include diagnostic and treatment facilities, laboratories, surgical suites, kitchen/food service facilities; laundry, housekeeping and maintenance facilities; administrative offices and parking. Medical centers may also include free-standing offices for hospital-based and/or private-practice physicians and other allied health care professionals; these medical office buildings are regulated as Offices.
8. Postal Service: Refers to postal services and processing as traditionally operated by the U.S. Postal Service, United Parcel Service or other similar entities. Such facilities include customer sales, mail sorting and fleet truck storage.
9. Religious Institutions: Places of religious worship which may include related accessory uses such as offices, classrooms, auditoriums, social halls, gymnasiums and other recreational activities.

10. Schools: Public and private elementary, middle and high schools.
11. Social/Fraternal Clubs/Lodges: Non-profit organizations with social, philanthropic and/or recreational functions and activities.

C. Commercial use types.

1. Commercial Lodging: Residential facilities such as hotels, motels, rooming houses and bed-and-breakfast establishments where tenancy is typically less than one month. May include accessory meeting and convention facilities and restaurants/bars.
2. Eating and Drinking Establishments: Establishments which sell prepared food and beverages for consumption on site or take-away including restaurants, delicatessens, bars, taverns, brew pubs and espresso bars.
3. Entertainment-Oriented
 - a. Major Event Entertainment: Facilities such as auditoriums, stadiums, convention centers and race tracks which provide athletic, cultural or entertainment events and exhibits for large groups of spectators.
 - b. Outdoor Entertainment: Facilities with extensive outdoor facilities including outdoor tennis clubs, golf courses and shooting ranges.
 - c. Indoor Entertainment: Commercial indoor facilities such as health/fitness clubs, tennis, racquetball and soccer centers, recreational centers, skating rinks, bowling alleys, arcades, shooting ranges and movie theaters.
 - d. Adult Entertainment: Facilities including adult motion picture theaters, adult video/book stores and topless, bottomless and nude dance halls which include materials and activities characterized or distinguished by an emphasis on matters depicting specified sexual activities or anatomical areas.
4. General Retail
 - a. Sales-Oriented: Establishments which consumer-oriented sales, leasing and rental of consumer, home and business goods including art; art supplies; bicycles; clothing; dry goods; electronic equipment; fabric; gifts; groceries; hardware; household products; jewelry; pets and pet products; pharmaceuticals; plant; printed materials; stationery and videos. Excludes large-scale consumer products (see 18.130.020 C.4.d); and those sold primarily outdoors (see 18.130.020 C.4.e, Outdoor Sales).
 - b. Personal Services: Establishments which provide consumer services such as banks and credit unions; barber and beauty shops; pet grooming; laundromats and dry cleaners; copy centers; photographic studios; trade/vocational schools; and mortuaries.
 - c. Repair-oriented: Establishments which engage in the repair of consumer and business goods including television and radios; bicycles; clocks; jewelry; guns; small appliances and office equipment; tailors and seamstresses; shoe repair; locksmith and upholsterer.

- d. Bulk sales: Establishments which engage in the sales, leasing and rental of bulky items requiring extensive interior space for display including furniture, large appliance and home improvement sales.
 - e. Outdoor sales: Establishments which engage in sales requiring outdoor display and/or storage including lumber yards and nurseries.
 - f. Animal-related: Animal breeding and boarding facilities. Excludes pet sales/supplies (see 18.120.030 C.4.a, Sales-Oriented); animal grooming (see 18.130.20 C.4.b, Personal Services); and veterinary clinics (see 18.130.020 C.6., Offices).
5. Motor Vehicle Related
- a. Motor Vehicle Sales/Rental: Includes car, light and heavy truck, mobile home, boat and recreational vehicle sales, rental and service.
 - b. Motor Vehicle Servicing/Repair: Free-standing vehicle servicing and repair establishments including quick and general vehicle service, car washes and body shops not an accessory to new vehicle sales.
 - c. Vehicle Fuel Sales: Establishments engaging in the sale of gasoline, diesel fuel and oil products for cars, trucks, recreational vehicles and boats.
6. Office: Government, business and professional offices. Examples include local, regional, state and federal offices and agencies; medical, dental and veterinary clinics and laboratories; blood collection centers; offices for attorneys, architects, accountants, engineers, stockbrokers, real estate agents, mortgage bankers, insurance brokers and other consultants; headquarters offices; sales offices; and radio and television studios. Also includes painting, landscaping, building and janitorial contractors where the indoor storage of materials and equipment are incidental to the office use. If this storage exceeds 50% of occupied space, such uses are classified as Industrial Services (see 18.130.020 D.1). Offices that are part of and are located within a firm in another use category are considered accessory to the firm's primary activity.
7. Non-Accessory Parking: Any private or public parking, either paid or free, which is not an accessory to a primary use; includes public and private parking structures and lots, and transit park-and-ride lots. May also include free-standing fleet vehicle parking lot.
8. Self-Service Storage: Commercial operations which provide rental of storage space to the public. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Does not include moving and storage companies where there is no individual storage or where employees are primary movers of the goods to be stored (see 18.130.020 D.5, Warehouse/Freight Movement).
- 9. *Meeting and Event Use: Activities including parties, weddings, luncheons, meetings, charitable fund raising, or other gatherings for direct or indirect compensation.***

D. Industrial use types.

1. **Industrial Services:** Includes the repair and servicing of industrial and business machinery, equipment and/or products. Examples include welding shops; machine shops; repair shops for tools, scientific/professional instruments, and motors; sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire recapping and retreading; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; janitorial and building maintenance contractors; fuel oil distributions; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photo-finishing laboratories.
2. **Manufacturing and Production**
 - a. **Light Industrial:** Includes production, processing, assembling, packaging or treatment of finished products from previously prepared materials or components. All activities and storage is contained within buildings. Examples include the manufacturing and assembly of small-scale machinery, appliances, computers and other electronic equipment; pharmaceuticals; scientific and musical instruments; art work, toys and other precision goods; sign-making; and catering facilities.
 - b. **General Industrial:** Manufacturing, processing and assembling of semi-finished or finished products from raw materials. All activities are contained within buildings although there may be some outside storage of raw materials. Examples include food processing; breweries, distilleries and wineries; production of apparel or textiles; woodworking including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone or glass materials or products; manufacturing and production of large-scale machinery.
 - c. **Heavy Industrial:** Manufacturing, processing and assembling of semi-finished or finished products from raw materials. A substantial proportion of activities and storage may be undertaken outdoors with resulting noise, glare, vibration and other potentially adverse impacts. Examples include energy production facilities; concrete batching and asphalt mixing; production of metals or metal products including enameling and galvanizing; production of cars, trucks, recreational vehicles or mobile homes.
3. **Railroad Yards:** A terminus of several railroad lines where the loading, unloading, transshipment and switching of rail cars is undertaken.
4. **Research and Development:** Facility featuring a mix of uses including office, research laboratories and prototype manufacturing. If no manufacturing component, considered Office use (see 18.130.020 C.6).
5. **Warehouse/Freight Movement:** Uses involved in the storage and movement of large quantities of materials or products indoors and/or outdoors; associated with significant truck and rail traffic. Examples include free-standing warehouses associated with retail furniture or appliance outlets; household moving and general freight storage; cold storage plants/frozen food lockers; weapon and ammunition storage; major wholesale distribution centers; truck, marine and air freight terminals; bus barns; grain terminals; and stockpiling of sand, gravel, bark dust or other aggregate and landscaping materials.
6. **Wholesale Sales:** Involves sales, leasing or rental of equipment or products primarily intended for industrial, institutional or commercial businesses. Businesses may or may not be open to the general public, but sales to the general public is limited. Examples include the sale or rental of

machinery, equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, and building hardware.

7. **Waste-Related:** Uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses which collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material. Examples include recycling/garbage transfer stations; land fills; composting, energy recovery and sewage treatment plants.

E. Other use types:

1. **Agriculture/Horticulture:** Open areas devoted to the raising of fruits, vegetable, nuts, nursery stock and/or flowers; may include on-site sales of products grown on the site. Excludes nurseries, which are classified under Outdoor Sales (see 18.130.020 C.4.e)
2. **Cemeteries:** Facilities for storing human remains. Accessory uses may include chapels, mortuaries, offices, maintenance facilities and parking.
3. **Detention Facilities:** Uses which have the characteristics of Group Living but are devoted to the housing, training and supervision of those under judicial detention. Examples include prisons, jails, probation centers, juvenile detention homes and related post-incarceration and half-way houses.
4. **Heliports:** Public or private facilities designed for the landing, departure, storage and fueling of helicopters.
5. **Mining:** Uses which mine or extract mineral or aggregate resources from the ground for off-site use. Accessory uses may include storage, sorting and transfer facilities.
6. **Rail Lines/Utility Corridors:** The regional corridors in public or private ownership dedicated for use by rail lines; above-grade or underground power or communication lines; water, sewer and storm sewer lines; or similar services.
7. **Wireless Communication Facilities:** Includes publicly- and privately-owned towers and related transmitting equipment for television, FM/AM radio, cellular and two-way radio and microwave transmission and related ancillary equipment buildings. Does not include radio/television transmission facilities which are part of the public safety network; see Basic Services. Does not include amateur (ham) radio antennas or towers. (Ord. 06-13)

18.130.030 Unlisted Use: Authorization of Similar Use

- A. Purpose. It is not possible to contemplate all of the various uses which will be compatible within a zoning district. Therefore, unintentional omissions occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zoning district had they been contemplated and whether such unlisted uses are compatible with the listed uses.
- B. Process. The Director shall render an interpretation, as governed by Chapter 18.340

C. Approval standards. Approval or denial of an unlisted use application by the Director shall be based on findings that:

1. The use is consistent with the intent and purpose of the applicable zoning district;
2. The use is similar to and of the same general type as the uses listed in the zoning district;
3. The use has similar intensity, density, and off-site impacts as the uses listed in the zoning district; and
4. The use has similar impacts on the community facilities as the listed uses. Community facilities include streets, schools, libraries, hospitals, parks, police and fire stations, and water, sanitary sewer and storm drainage systems.

D. Other provisions.

1. The Director shall not authorize an unlisted use in a zoning district if the use is specifically listed in another zone as either a permitted use or a conditional use.
2. The Director shall maintain a list by zoning district of approved unlisted uses and the list shall have the same effect as an amendment to the use provisions of the applicable zone.■

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Proposed ADDITIONS indicated by *Italics and Bold*

**Chapter 18.330
CONDITIONAL USE**

Sections:

- 18.330.010 Purpose**
- 18.330.020 Approval Process**
- 18.330.030 Approval Standards and Conditions of Approval**
- 18.330.040 Additional Submission Requirements**
- 18.330.050 Additional Development Standards for Conditional Use Types**

18.330.010 Purpose

- A. Purpose. The purpose of this chapter is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met. There are certain uses which due to the nature of the impacts on surrounding land uses and public facilities require a case-by-case review and analysis.

18.330.020 Approval Process

- A. Initial applications. A request for approval for a new conditional use shall be processed as a Type III-HO procedure, as regulated by Chapter 18.390.050, using approval criteria contained in Section 18.330.030A and subject to other requirements in this chapter.

B. Major modification of approved or existing conditional use.

1. An applicant may request approval of modification to an approved plan by:
 - a. Providing the Director with five copies of the proposed modified conditional use site plan; and
 - b. A narrative addressing the proposed changes as listed in subsection B below.
2. The Director shall determine that a major modification(s) has resulted if one or more of the changes listed below have been proposed:
 - a. A change in land use;
 - b. An 10% increase in dwelling unit density;
 - c. A change in the type and/or location of access ways and parking areas where off-site traffic would be affected;
 - d. An increase in the floor area proposed for non-residential use by more than 10% where previously specified;

- e. A reduction of more than 10% of the area reserved for common open space and/or usable open space;
 - f. A reduction of specified setback requirements by more than 20%;
 - g. An elimination of project amenities by more than 10% where previously specified provided such as:
 - (1) Recreational facilities;
 - (2) Screening; or
 - (3) Landscaping provisions; and
 - h. A 10% increase in the approved density;
3. Upon the Director determining that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application in accordance with Section 18.390.050.

C. Minor modification of approved or existing conditional use.

- 1. Any modification which is not within the description of a major modification as provided in Subsection B above shall be considered a minor modification.
- 2. An applicant may request approval of a minor modification by means of a Type I procedure, as regulated by Section 18.390.040, using approval criteria in Subsection C3 below.
- 3. A minor modification shall be approved, approved with conditions, or denied following the Director's review based on the findings that:
 - a. The proposed development is in compliance with all applicable requirements of this title; and
 - b. The modification is not a major modification as defined in Subsection A above.

D. Phased development approval. As part of the approval process, the Hearings Officer shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for conditional use review. The criteria for approving a phased conditional use review proposal is that all of the following are satisfied:

- 1. The public facilities shall be constructed in conjunction with or prior to each phase.
- 2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable City or district standard.
- 3. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal.

18.330.030 Approval Standards and Conditions of Approval

- A. Approval standards. The Hearings Officer shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:
1. The site size and dimensions provide adequate area for the needs of the proposed use;
 2. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography, and natural features;
 3. All required public facilities have adequate capacity to serve the proposal;
 4. The applicable requirements of the zoning district are met except as modified by this chapter;
 5. The applicable requirements of 18.330.050; and
 6. The supplementary requirements set forth in other chapters of this code including but not limited to Chapter 18.780, Signs, and Chapter 18.360, Site Development Review, if applicable, are met.
- B. Conditions of approval. The Hearings Officer may impose conditions on the approval of a conditional use, which are found necessary to ensure the use is compatible with other use in the vicinity, and that the impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include, but are not limited to the following:
1. Limiting the hours, days, place and/or manner of operation;
 2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and/or dust;
 3. Requiring additional setback areas, lot area, and/or lot depth or width;
 4. Limiting the building height, size or lot coverage, and/or location on the site;
 5. Designating the size, number, location and/or design of vehicle access points;
 6. Requiring street right-of-way to be dedicated and street(s) to be improved;
 7. Requiring landscaping, screening, drainage and/or surfacing of parking and loading areas;
 8. Limiting the number, size, location, height and/or lighting of signs;
 9. Limiting or setting standards for the location and/or intensity of outdoor lighting;
 10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
 11. Requiring and designating the size, height, location and/or materials for fences;

12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and/or drainage areas;
 13. Requiring the dedication of sufficient open land area for a greenway adjoining and within the floodplain when land form alterations and development are allowed within the 100-year floodplain; and
 14. Requiring the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.
- C. Exemptions. Manufactured home parks and manufactured home subdivisions are exempt from the provisions of Subsection B above. Manufactured home subdivisions are subject to approval under the provisions of Chapter 18.430, Subdivisions. Manufactured home parks are subject to approval under the provisions of Chapter 18.340, Site Development Review.

18.330.040 Additional Submission Requirements

- A. Additional submission requirements. In addition to the submission requirements required in Chapter 18.390, Decision-Making Procedures, an application for conditional use approval must include the following additional information in graphic, tabular and/or narrative form. The Director shall provide a list of the specific information to be included in each of the following:
1. Existing site conditions;
 2. A site plan;
 3. A grading plan;
 4. A landscape plan;
 5. Architectural elevations of all structures; and
 6. A copy of all existing and proposed restrictions or covenants.

18.330.050 Additional Development Standards for Conditional Use Types

- A. Concurrent variance application(s). A conditional use permit shall not grant variances to the regulations otherwise prescribed by this title. A variance application(s) may be filed in conjunction with the conditional use application and both applications may be heard at the same hearing.
- B. Additional development standards. The additional dimensional requirements and approval standards for conditional use are as follows:
1. Adult Entertainment:
 - a. No adult entertainment establishment shall be permitted to locate within 500 feet of any:
 - (1) Residential zone;
 - (2) Public or private nursery, preschool, elementary, junior, middle, or high school;

- (3) Day care center, nursery school, resident care facility or hospital;
 - (4) Public library;
 - (5) Public park; or
 - (6) Religious institution.
- b. Distance shall be measured in a straight line, without regard to intervening structures, objects or roads, from the closest point of the structure or portion of structure containing the use, to the closest portion of the residential zone or property line upon which a use specified in paragraph (a) above is listed;
 - c. Any sign shall comply with the sign requirements, Chapter 18.780;
 - d. Hours of operation shall be limited to 10:00 a.m. to 1:00 a.m.;
 - e. All windows less than seven feet from the ground shall be covered or screened in such a manner that the sales area and inventory are not visible from the sidewalk adjacent to the use;
 - f. Doors and windows shall at all times be closed except for normal ingress and egress;
 - g. No amplified or mechanically reproduced sounds shall emanate from the confines of the structure or portion of the structure in which the adult business is operated; and
 - h. All adult entertainment establishments shall comply with all applicable state laws.
2. Motor Vehicle Servicing and Repair:
- a. Setbacks:
 - (1) A five-foot perimeter setback shall surround all outdoor parking and storage areas;
 - (2) Buffer screening shall be provided along the perimeter of all outdoor parking and storage areas as required in Section 18.745.040; and
 - (3) All repair work shall be performed indoors.
3. Fleet Storage:
- a. No buildings or structures are allowed; and
 - b. Setbacks shall comply to those of the underlying zone.
4. Motor Vehicle Sales and Rental:
- a. Five feet of the perimeter setback shall be used for landscaping and screening purposes;
5. Community Recreation and Parks:
- a. All building setbacks shall be a minimum of 30 feet from any property line;

- b. There are no off-street parking requirements, except that five automobile parking spaces are required for a dog park or off-leash area with a fenced area of one acre or more, along with an approved parking plan for anticipated peak use periods. Off-site peak use or overspill parking shall require a signed agreement with the landowner providing the additional parking. Three automobile parking spaces are required for a dog park or off-leash area with a fenced area of less than one acre, along with an approved parking plan for anticipated peak use periods. Off-site peak use or overspill parking shall require a signed agreement with the landowner providing the additional parking.
- 6. Heliports:
 - a. In all commercial and industrial zones, heliports shall be sited in accordance with the ODOT Aeronautics Division requirements and the FAA recommended design guidelines.
- 7. Vehicle Fuel Sales:
 - a. Minimum lot size shall be 10,000 square feet;
 - b. Setbacks:
 - (1) The front yard setback shall be 40 feet;
 - (2) On corner and through lots, the setback shall be 40 feet on any side facing a street; and
 - (3) No side or rear yard setback shall be required, except 20 feet where abutting a residential zoning district;
 - c. Fuel tank installation shall be in accordance with the Uniform Fire Code; and
 - d. Building height shall be the same as applicable zone.
- 8. Schools:
 - a. There shall be no minimum lot size requirements for schools other than what is required for the applicable zoning district;
 - b. Setbacks:
 - (1) The front yard setback shall be a minimum of 30 feet;
 - (2) On corner lots and through lots, the setback shall be a minimum of 20 feet on any side facing a street, plus meet visual clearance areas, Chapter 18.795;
 - (3) The side yard setback shall be a minimum of 20 feet; and
 - (4) The rear yard setback shall be a minimum of 30 feet.
- 9. Religious Institutions:
 - a. Minimum lot size shall be 20,000 square feet;

b. Setbacks:

- (1) The front yard setback shall be a minimum of 25 feet;
- (2) On corner lots and through lots, the setback shall be a minimum of 20 feet, plus meet visual clearance areas, Chapter 18.795;
- (3) The side yard setback shall be a minimum of 20 feet;
- (4) The rear yard setback shall be a minimum of 20 feet; and
- (5) Each setback shall be increased five feet for every 10 feet of building height over 45 feet.

10. Medical Centers:

- a. Minimum lot size shall be 20,000 square feet plus 1,000 square feet for each bed over 15 beds;

b. Setbacks:

- (1) The front yard setback shall be a minimum of 25 feet;
- (2) On corner lots and through lots, the setback shall be a minimum of 25 feet, plus meet visual clearance areas requirements, Chapter 18.795;
- (3) The side yard setback shall be a minimum of 25 feet;
- (4) The rear yard setback shall be a minimum of 25 feet; and
- (5) Each setback shall be increased five feet for every 10 feet of building height over 45 feet.

11. Cemeteries:

- a. The minimum lot size shall be five acres;

b. Setbacks:

(1) For graves only:

- (a) The front yard setbacks shall be a minimum of 15 feet;
- (b) The side yard setbacks shall be a minimum of 15 feet; and
- (c) The rear yard setbacks shall be a minimum of 15 feet.

(2) For Structures Only:

- (a) The front yard setbacks shall be a minimum of 25 feet;

- (b) On corner lots and through lots, the setbacks shall be a minimum of 25 feet on any side facing a street, plus meet visual clearance areas, Chapter 18.795;
 - (c) The side yard setback shall be a minimum of 25 feet; and
 - (d) The rear yard setback shall be a minimum of 25 feet;
 - c. Adequate fencing shall be provided. A fence of at least four feet in height located at least 2-1/2 feet from any right-of-way shall completely surround the area and shall meet visual clearance areas; and
 - d. There are no off-street parking requirements.
12. Social/Fraternal Clubs/Lodges:
- a. Minimum lot size shall be 20,000 square feet.
13. Major Event Entertainment:
- a. The minimum lot size shall be two acres;
 - b. Setbacks:
 - (1) The front yard setback shall be a minimum of 30 feet;
 - (2) On corner lots and through lots, the setback shall be a minimum of 25 feet on any side facing a street, plus meets visual clearance areas, Chapter 18.795;
 - (3) The side yard setback shall be a minimum of 25 feet;
 - (4) The rear yard setback shall be a minimum of 30 feet; and
 - (5) Each setback shall be increased five feet for every 10 feet of building height over 45 feet.
 - c. With regard to off-street parking: Exempt, if constructed with a school use. Otherwise, requirements shall comply with Section 18.765;
14. Duplexes:
- a. The minimum lot size shall be 10,000 square feet; and
 - b. The remaining dimensional requirements of the underlying zoning district shall apply.
15. Group Living:
- a. Minimum lot size shall be 5,000 square feet;
 - b. Minimum setbacks shall be those in the applicable zone;
 - c. Height limitation shall be that in the applicable zone;

- d. Compliance with all state requirements shall be required; and
- e. Off-street parking shall be in accordance with Chapter 18.765.

16. Emergency Services and Basic Utilities:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum setbacks shall be those in the applicable zone;
- c. Height limitation shall be in accordance with Chapter 18.730;
- d. Off-street parking and loading requirement shall be in accordance with Chapter 18.765; and
- e. Screening shall be in accordance with Chapter 18.745.

17. Non-Accessory Parking:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum setbacks: for structures: shall be those of the applicable zone; for parking area: five feet around perimeter of paved area for landscaping and screening purposes;
- c. Height limitation shall be that of the applicable zone;
- d. Off-street parking requirements shall be in accordance with Chapter 18.765; and
- e. Screening shall be in accordance with Chapter 18.745.

18. Manufactured/Mobile Home Parks (Also see Chapter 18.750):

- a. Minimum lot size shall be one acre;
- b. Minimum lot dimension:
 - (1) Frontage: 100 feet;
 - (2) Depth: 150 feet;
- c. Minimum setbacks:
 - (1) Front yard: 25 feet;
 - (2) Rear yard: 25 feet;
 - (3) Side yard: 10 feet;
 - (4) Corner yard: 25 feet.
- d. Height limitation shall be that of the applicable zone;

- e. Off-street parking shall be in accordance with Chapter 18.765;
- f. Landscaping shall be equal to 20% of the project area;
- g. Screening shall be in accordance with Chapter 18.745;
- h. Outdoor recreation shall equal a minimum of 60 square feet area, suitably improved for recreational use, for each unit exclusive of required yards. Each recreation area shall have minimum size of 2,500 square feet.

19. Children's Day Care:

- a. Minimum lot size shall be 5,000 square feet;
- b. Minimum Setbacks shall be those of the applicable zone;
- c. Height limitation shall be that of the applicable zone;
- d. State certification shall be obtained in accordance with ORS Chapter 418; and
- e. Off-street parking shall be in accordance with Chapter 18.765.

20. Drive-Up Windows:

- a. Minimum lot size shall be as required in the underlying zone.
- b. Minimum setbacks: Where access to the drive-up windows is not separated from abutting properties or a public right-of-way by parking, structures or landscaping, visual screening shall be provided to screen headlights from abutting property and the right-of-way.
- c. Height limitation shall be in accordance with the underlying zone.
- d. Drive-up window reservoir requirement: All uses providing drive-up service as defined by this title shall provide on the same site a reservoir for inbound vehicles as follows in Table 18.765.1 contained in Chapter 18.765, Off-Street Parking and Loading Requirements.
- e. Reservoir Parking: Restaurants providing drive-up window service shall provide at least two designated parking spaces immediately beyond the service window, or provide other satisfactory methods, to allow customers requiring excessive waiting time to receive their food while parked.
- f. Hours of operation: Hours of operation shall be limited for the drive-up window when the property with the drive-up window facility abuts a residential use. In this case, hours of the drive-up window shall be limited to 7 AM to 9 PM.
- g. Walk-up service: Financial and other commercial establishments providing drive-up window facilities which do not provide for walk-in customer service (i.e., not allowing transactions within the structure) shall provide for safe, convenient and readily-accessible exterior walk-up window service, such as an automatic teller machine, at any time during regular business hours. Additionally, at a minimum, two parking spaces shall be provided allowing convenient access to the walk-up service window.

- h. Emergency exit: The design of the vehicle stacking area serving the drive-up window shall allow customers to leave the stacking line in their vehicle in the event of an emergency.
- i. Pedestrian access: On-site parking for walk-in customers shall be designed so that pedestrians do not have to cross drive-up window stacking lines to any public entrances into the building.
- j. Obstruction of rights-of-way: Establishments having drive-up window facilities shall have sufficient stacking area to insure that public rights-of-way are not obstructed.
- k. Sound systems: Communications sound systems shall not exceed a measurement of 55 decibels at the adjoining property line(s) at any time.

21. Meeting and Event Uses in Residential Zones

- a. The property where the use will occur must be in a Historic Overlay zone and/or on the National Register of Historic Places.*
- b. Yearly maximum number of events: A maximum of 18 meetings or events may be held per year.*
- c. Maximum number of persons attending a meeting or event: The maximum number of persons attending an event shall be 40, provided however, that up to 200 persons may attend up to 6 meetings or events per year. The number of persons attending an event shall include all persons present on the property and participating in any way in the meeting or event, including hosts, workers, volunteers, as well as the guests and invitees.*
- d. Hours of operation: The meetings or events may be held between 7 AM and 9 PM. All activities related to the meetings or events, including clean-up must cease by 9 PM.*
- e. Lighting: No light source used for the meetings or events shall be directed at another property. All light sources shall be screened, hooded, or covered.*
- f. Sound systems: Outdoor amplified sound systems for the meetings or events shall not be permitted.*
- g. Noise: For the purposes of noise regulation, the provisions of Section 7.40.130 through 7.40.210 of the Tigard Municipal Code shall apply.*
- h. Parking: A parking plan for each meeting or event shall be submitted to the Community Development Department one week prior to the event. This plan shall include a description of the event, the number of expected guests,*

evidence of the availability of on- street and off-street parking, and signed agreements with any providers of off-street parking for guests.

- i. No signs related to the conditional use are permitted.*
- j. The Hearings Officer may impose additional site specific conditions on the approval of the conditional use, as referenced in Section 18.330.30.B.*
- k. Violations of the conditions of approval or code provisions could result in the revocation of the conditional use permit by the Director.*
- l. The conditional use is allowed to continue so long as the property retains its Historic Overlay and/or National Register of Historic Places designation.*

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Proposed ADDITIONS indicated by *Italics and Bold*

Chapter 18.510
RESIDENTIAL ZONING DISTRICTS

Sections:

18.510.010	Purpose
18.510.020	List of Zoning Districts
18.510.030	Uses
18.510.040	Minimum and Maximum Densities
18.510.050	Development Standards
18.510.060	Accessory Structures

18.510.010 Purpose

- A. Preserve neighborhood livability. One of the major purposes of the regulations governing development in residential zoning districts is to protect the livability of existing and future residential neighborhoods, by encouraging primarily residential development with compatible non-residential development -- schools, churches, parks and recreation facilities, day care centers, neighborhood commercial uses and other services -- at appropriate locations and at an appropriate scale.
- B. Encourage construction of affordable housing. Another purpose of these regulations is to create the environment in which construction of a full range of owner-occupied and rental housing at affordable prices is encouraged. This can be accomplished by providing residential zoning districts of varying densities and developing flexible design and development standards to encourage innovation and reduce housing costs.

18.510.020 List of Zoning Districts

- A. R-1: Low-Density Residential District. The R-1 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 30,000 square feet. Some civic and institutional uses are also permitted conditionally.
- B. R-2: Low-Density Residential District. The R-2 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 20,000 square feet. Some civic and institutional uses are also permitted conditionally.
- C. R-3.5: Low-Density Residential District. The R-3.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 10,000 square feet. Duplexes are permitted conditionally. Some civic and institutional uses are also permitted conditionally.
- D. R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.

- E. R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.
- F. R-12: Medium-Density Residential District. The R-12 zoning district is designed to accommodate a full range of housing types at a minimum lot size of 3,050 square feet. A wide range of civic and institutional uses are also permitted conditionally.
- G. R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.
- H. R-40: Medium High-Density Residential District. The R-40 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units with no minimum lot size or maximum density. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

18.510.030 Uses

- A. Types of uses. For the purposes of this chapter, there are four kinds of use:
1. A permitted (P) use is a use which is permitted outright, but subject to all of the applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted used under the provisions of Chapter 18.230;
 2. A restricted (R) use is permitted outright providing it is in compliance with special requirements, exceptions or restrictions;
 3. A conditional use (C) is a use the approval of which is discretionary with the Hearings Officer. The approval process and criteria are set forth in Chapters 18.310 and 18.320. If a use is not listed as a conditional use, it may be held to be a similar unlisted used under the provisions of Chapter 18.230;
 4. A prohibited (N) use is one which is not permitted in a zoning district under any circumstances.
- B. Use table. A list of permitted, limited, conditional and prohibited uses in residential zones is presented in Table 18.510.1.

**TABLE 18.510.1
USE TABLE**

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
RESIDENTIAL								
Household Living	P	P	P	P	P	P	P	P
Group Living	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}
Transitional Housing	N	N	N	N	N	C	C	C
Home Occupation	R ²	R ²	R ²	R ²	R ²	R ²	R ²	R ²
HOUSING TYPES								
Single Units, Attached	N	N	N	R ⁸	R ^{9/C}	P	P	P
Single Units, Detached	P	P	P	P	P	P	P	P
Accessory Units	R ³	R ³	R ³	R ³	R ³	R ³	R ³	R ³
Duplexes	N	N	C	C	P	P	P	P
Multi-Family Units	N	N	N	N	N	P	P	P
Manufactured Units	P	P	P	P	P	P	P	P
Mobile Home Parks/Subdivisions	N	N	C	C	P	P	P	P
CIVIC (INSTITUTIONAL)								
Basic Utilities	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴
Colleges	C	C	C	C	C	C	C	C
Community Recreation	C	C	C	C	C	C	C	C
Cultural Institutions	N	N	C	C	C	C	N	N
Day Care	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵
Emergency Services	C	C	C	C	C	N	N	N
Medical Centers	N	N	C	C	C	C	C	C
Postal Service	N	N	N	N	N	N	N	N
Public Support Facilities	P	P	P	P	P	P	P	P
Religious Institutions	C	C	C	C	C	C	C	C
Schools	C	C	C	C	C	C	C	C
Social/Fraternal Clubs/Lodges	N	N	N	N	N	C	C	C
COMMERCIAL								
Commercial Lodging	N	N	N	N	N	N	N	N
Eating and Drinking Establishments	N	N	N	N	N	N	N	N
Entertainment-Oriented								
- Major Event Entertainment	N	N	N	N	N	N	N	N
- Outdoor Entertainment	N	N	N	N	N	N	N	N
- Indoor Entertainment	N	N	N	N	N	N	N	N
- Adult Entertainment	N	N	N	N	N	N	N	N
General Retail								
- Sales-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
- Personal Services	N	N	N	N	N	N	R ¹¹	R ¹¹
- Repair-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
- Bulk Sales	N	N	N	N	N	N	N	N
- Outdoor Sales	N	N	N	N	N	N	N	N
- Animal-Related	N	N	N	N	N	N	N	N

TABLE 18.510.1 (CON'T)

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
<i>Historic Place Meetings and Events</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>
Motor Vehicle Related								
- Motor Vehicle Sales/Rental	N	N	N	N	N	N	N	N
- Motor Vehicle Servicing/Repair	N	N	N	N	N	N	N	N
- Vehicle Fuel Sales	N	N	N	N	N	N	N	N
Office	N	N	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N	N	N
Non-Accessory Parking	N	N	N	N	N	C ¹⁰	C ¹⁰	C ¹⁰
INDUSTRIAL								
Industrial Services	N	N	N	N	N	N	N	N
Manufacturing and Production								
- Light Industrial	N	N	N	N	N	N	N	N
- General Industrial	N	N	N	N	N	N	N	N
- Heavy Industrial	N	N	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N	N	N
Research and Development	N	N	N	N	N	N	N	N
Warehouse/Freight Movement	N	N	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N	N
OTHER								
Agriculture/Horticulture	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶	N	N	N
Cemeteries	N	N	C	C	C	N	N	N
Detention Facilities	N	N	N	N	N	N	N	N
Heliports	N	N	N	N	N	N	N	N
Mining	N	N	N	N	N	N	N	N
Wireless Communication Facilities	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷
Rail Lines/Utility Corridors	C	C	C	C	C	C	C	C

P=Permitted

R=Restricted

C=Conditional Use

N=Not Permitted

¹Group living with five or fewer residents permitted by right; group living with six or more residents permitted as conditional use.

²Permitted subject to requirements Chapter 18.742.

³Permitted subject to compliance with requirements in 18.710.

⁴Except water and storm and sanitary sewers, which are allowed by right.

⁵In-home day care which meets all state requirements permitted by right; freestanding day care centers which meet all state requirements permitted conditionally.

⁶When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.

⁷See Chapter 18.798, Wireless Communication Facilities, for requirements for permitted and restricted facilities.

⁸Attached single-family units permitted only as part of an approved planned development.

⁹Permitted by right if no more than five units in a grouping; permitted conditionally if six or more units per grouping.

¹⁰Only park-and-ride and other transit-related facilities permitted conditionally.

¹¹Limited to ground-floor level of multi-family projects, not to exceed 10% of total gross square feet of the building.

¹² *Limited to properties that have a Historic Overlay and/or are on the National Register of Historic Places.*

18.510.040 Minimum and Maximum Densities

- A. Purpose. The purpose of this section is to establish minimum and maximum densities in each residential zoning district. To ensure the quality and density of development envisioned, the maximum density establishes the ceiling for development in each zoning district based on minimum lot size. To ensure that property develops at or near the density envisioned for the zone, the minimum density for each zoning district has been established at 80% of maximum density.
- B. Calculating minimum and maximum densities. The calculation of minimum and maximums densities is governed by the formulas in Chapter 18.715, Density Computations.
- C. Adjustments. Applicants may request an adjustment when, because of the size of the site or other constraint, it is not possible to accommodate the proportional minimum density as required by Section 18.715020C and still comply with all of the development standards in the underlying zoning district, as contained in Table 18.510.2 below. Such an adjustment may be granted by means of a Type I procedure, as governed by Chapter 18.390, using approval criteria in Section 18.370.020.C.2.

18.510.050 Development Standards

- A. Compliance required. All development must comply with:
 - 1. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances or adjustments in accordance with Chapters 18.370;
 - 2. All other applicable standards and requirements contained in this title.
- B. Development Standards. Development standards in residential zoning districts are contained in Table 18.510.2.

**TABLE 18.510.2
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

STANDARD	R-1	R-2	R-3.5	R-4.5	R-7
Minimum Lot Size - Detached unit - Duplexes - Attached unit [1]	30,000 sq.ft.	20,000 sq.ft.	10,000 sq.ft.	7,500 sq.ft. 10,000 sq.ft.	5,000 sq. ft. 10,000 sq.ft. 5,000 sq.ft.
Average Minimum Lot Width - Detached unit lots - Duplex lots - Attached unit lots	100 ft.	100 ft.	65 ft. 90 ft.	50 ft. 90 ft.	50 ft. 50 ft. 40 ft.
Maximum Lot Coverage	-	-	-	-	80% [2]
Minimum Setbacks - Front yard - Side facing street on corner & through lots - Side yard - Rear yard - Side or rear yard abutting more restrictive zoning district - Distance between property line and front of garage	30 ft. 20 ft. 5 ft. 25 ft. 20 ft.	30 ft. 20 ft. 5 ft. 25 ft. 20 ft.	20 ft. 20 ft. 5 ft. 15 ft. 20 ft.	20 ft. 15 ft. 5 ft. 15 ft. 20 ft.	15 ft. 10 ft. 5 ft. 15 ft. 30 ft. 20 ft.
Maximum Height	30 ft.	30 ft.	30 ft.	30 ft.	35 ft.
Minimum Landscape Requirement	-	-	-	-	20%

[1] Single-family attached residential units permitted at one dwelling per lot with no more than five attached units in one grouping.

[2] Lot coverage includes all buildings and impervious surfaces.

**TABLE 18.510.2 - (Cont'd.)
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

STANDARD	R-12		R-25		R-40	
	MF DU*	SF DU**	MF DU*	SF DU**	MF DU*	SF DU**
Minimum Lot Size - Detached unit - Attached unit - Duplexes - Boarding, lodging, rooming house	3,050 sq.ft. per unit	3,050 sq.ft. per unit	1,480 sq.ft. 6,100 sq.ft.	3,050 sq.ft. per unit 1,480 sq.ft. 6,100 sq.ft. or 3,050 sq.ft. per unit	None	None None None
Average Lot Width	None	None	None	None	None	None
Minimum Setbacks - Front yard - Side facing street on corner & through lots - Side yard - Rear yard - Side or rear yard abutting more restrictive zoning district - Distance between property line and garage entrance	20 ft. 20 ft. 10 ft. 20 ft. 30 ft. 20 ft.	15 ft. 10 ft. 5 ft. [1] 15 ft. 30 ft. 20 ft.	20 ft. 20 ft. 10 ft. 20 ft. 30 ft. 20 ft.	15 ft. 10 ft. 5 ft. [1] 15 ft. 30 ft. 20 ft.	20 ft. 20 ft. 10 ft. 20 ft. 35 ft. 20 ft.	15 ft. 10 ft. 5 ft. [1] 15 ft. 35 ft. 20 ft.
Maximum Height	35 ft.	35 ft.	45 ft.	45 ft.	60 ft.	60 ft.
Maximum Lot Coverage [2]	80%	80%	80%	80%	80%	80%
Minimum Landscape Requirement	20%	20%	20%	20%	20%	20%

[1] Except this shall not apply to attached units on the lot line on which the units are attached.

[2] Lot coverage includes all buildings and impervious surfaces.

* Multiple-family dwelling unit

** Single-family dwelling unit

18.510.060 Accessory Structures

A. Permitted uses. Accessory structures are permitted by right in all residential zones subject to the following:

1. Dimensional requirements:

- a. On sites containing less than 2.5 acres, an accessory structure may not exceed 528 square feet. On sites 2.5 acres or larger, an accessory structure may not exceed 1,000 square feet;
- b. An accessory structure may not exceed 15 feet in height;
- c. In no case shall the primary structure and accessory structure(s) exceed the maximum lot coverage allowed in the base zone;
- d. An accessory structure may not be located within the front yard setback;
- e. An accessory structure must maintain a minimum side and rear yard setback of five feet;

2. Non-dimensional requirements:

- a. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys and public and private easements;
- b. An accessory structure shall comply with all of the requirements of the Uniform Building Code. All accessory structures except those less than 120 square feet in size require a building permit;
- c. An accessory structure which is non-conforming is subject to the provisions of Chapter 18.760, Non-Conforming Situations, when an alternation, expansion or reconstruction is requested;
- d. The erection of television receiving dishes on the roof of a structure is not permitted in any residential zone.

3. All freestanding and detached towers, antennas, wind-generating devices and TV receiving dishes, except as otherwise regulated by Wireless Communication Facilities (Chapter 18.798), shall have setbacks equal to or greater than the height of the proposed structure. Suitable protective anti-climb fencing and a landscaped planting screen, in accordance with Chapter 18.745, Landscaping and Screening, shall be provided and maintained around these structures and accessory attachments.■

DRAFT DCA2006-00005

Proposed ADDITIONS indicated by *Italics and Bold*

**Chapter 18.740
HISTORIC OVERLAY**

Sections:

- 18.740.010 Purpose**
- 18.740.020 Applicability of Provisions**
- 18.740.030 General Provisions**
- 18.740.040 Approval Process**
- 18.740.050 Application Submission Requirements**

18.740.010 Purpose

A. Purposes. The purpose of this chapter is to:

1. Facilitate the protection, enhancement and perpetuation of such improvements and of such districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history;
2. Enhance any registered historic or cultural areas designated in the City;
3. Stabilize and improve property values in such districts;
4. Strengthen the economy of the City;
5. Promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City; and
6. Implement the applicable provisions of LCD Goal 5 and the City of Tigard Comprehensive Plan.

18.740.020 Applicability of Provisions

A. Designated areas. The historic overlay district shall apply to the following sites and areas:

1. Historic sites and areas;
2. Cultural sites and areas; and
3. Landmarks.

B. Designated activities. The provisions of this chapter apply to:

1. The demolition of structures within an historic overlay zone area, as governed by Section 18.740.030; and
2. The exterior alteration or new construction within the historic overlay zone area, as governed by Section 18.740.030.

18.740.030 General Provisions

- A. Approval of exterior alterations. Except as provided pursuant to Subsection B below, no person shall alter any structure in an historic overlay district in a manner as to affect its exterior appearance, nor may any new structure be constructed in an historic district unless approved by the Director.
- B. Approval of demolition. No person shall demolish a structure located within an historic overlay district unless it is approved by the Director under the provisions of this chapter.
- C. Exemptions.
1. Exterior remodeling, as governed by this chapter, shall include any change or alteration in design or other exterior treatment excluding painting;
 2. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any architectural features which do not involve a change in design, material or the outward appearance of such feature which the Building Official shall certify is required for the public safety because of its unsafe or dangerous condition.
- D. Condition of approval. If alteration or demolition of the historic resource is intended, a condition of approval shall be that insofar as feasible and as funds are available, the Washington County Museum shall obtain:
1. A pictorial and graphic history of the resource; and
 2. Artifacts from the resource it deems worthy of preservation.
- E. Incentives for maintenance. In an effort to assist in the upkeep and restoration of properties with a Historic Overlay designation and/or listing on the National Register of Historic Places, Meeting and Event Uses may be permitted, subject to Conditional Use approval, in all residential zones.***

18.740.040 Approval Process

- A. Criteria for historic overlay district designation.
1. Approval of an historic overlay district designation shall be made by means of a Type III-PC procedure, as governed by Section 18.390.050, when the Historic Sites and Districts Committee finds that any of the following criteria have been met:
 - a. The proposed district or landmark would serve the purpose of the historic overlay district as stated in Section 18.740.010, Purpose;
 - b. The site or area proposed for the designation reflects the broad cultural or natural history of the community, state or nation;

- c. The site or area is identified with historic personages, or with important events in national, state or local history;
 - d. The site or area proposed for the designation embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style or method of construction; or
 - e. The proposed site or area is a notable work of a master builder, designer or architect.
2. The age of a specific building is not sufficient in itself to warrant designation as historic.
- B. Criteria for removal of historic overlay district designation. Removal of an historic overlay district designation shall be made by means of a Type III-PC procedure, as governed by Section 18.390.050, when the Historic Sites and Districts Committee finds that any of the following criteria have been met:
- 1. The original historic overlay district designation was placed on the site in error;
 - 2. The resource designated with the historic overlay district designation has ceased to exist;
 - 3. The resource designated with the historic overlay district designation is no longer of significance to the public; or
 - 4. The historic overlay district designation is causing the property owner to bear an unfair economic burden to maintain the property as an historic or cultural resource.
- C. Criteria for exterior alterations. Approval for exterior alterations of structures in an historic overlay district shall be granted by means of a Type II procedure, as governed by Section 18.390.040, by the Director using the following criteria:
- 1. The purpose of the historic overlay district as set forth in Section 18.740.010;
 - 2. The economic use of the structure in a historic overlay district and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation;
 - 3. The value and significance of the structure or landmark in an historic overlay district;
 - 4. The physical condition of the structure or landmark in an historic overlay district;
 - 5. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture, and materials proposed to be used with an existing structure in an historic overlay district;
- D. Criteria for construction of new structures. Approval for exterior alterations of structures in an historic overlay district shall be granted by means of a Type II procedure, as governed by Section 18.390.040, by the Director using the following criteria:
- 1. The purpose of the historic overlay district as set forth in Section 18.740.010;
 - 2. The economic effect of the new structure on the historic value of the district;

3. The visual effect of the proposed new structure on the architectural character of the district;
 4. The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure; and
- E. Criteria for demolition. Approval for demolition of structures in an historic overlay district shall be granted by means of a Type II procedure, as governed by Section 18.390.040, by the Director using the following criteria:
1. The purpose of this chapter as set forth in Section 18.740.010;
 2. The criteria used in the original designation of the district in which the property under consideration is situated;
 3. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to similar features of the other buildings within the district, and the position of the building or structure in relation to public rights-of-way, and to other buildings and structures in the area;
 4. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district which cause it to possess a special character or special historical or aesthetic interest or value;
 5. Whether denial of the permit will subject the City to potential liability, involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this title.

18.740.050 Application Submission Requirements

- A. Submission requirements. All applications shall be made on forms provided by the Director. In addition to the submission requirements required by Chapter 18.390, Decision-Making Procedures, an application for any action governed by this chapter, as defined by Section 18.740.020, must include the following information. Specific information to be contained in each of the following is available from the Director.
1. Site plan;
 2. Architectural drawings;
 3. Landscape plan;
 4. Sign drawings.■

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
November 20, 2006**

1. CALL TO ORDER

President Inman called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman; Commissioners Buehner, Caffall, Harbison, Meads, and Walsh

Commissioners Absent: Commissioners Munro and Vermilyea

Staff Present: Dick Bewersdorff, Planning Manager; Ron Bunch, Long Range Planning Manager; Sean Farrelly, Associate Planner; Jerree Lewis, Planning Commission Secretary

3. PLANNING COMMISSION COMMUNICATIONS AND COMMITTEE REPORTS

It was advised that the meeting with the Tree Board on December 11th might start later than 8:00. There are 2 public hearings that night with the Hearings Officer that staff needs to attend before the workshop with the Tree Board.

Commissioner Walsh reported on the Tree Board. They held a follow up meeting after the last workshop with the Planning Commission. Dick Bewersdorff advised that staff will outline the issues brought up at the last workshop in preparation of the next workshop on December 11th.

Commissioner Buehner advised that the Transportation Financing Task Force held an open house on November 9th to discuss the proposed gas tax. She noted that the meeting was well attended and lots of thoughtful questions were asked. There will be a 2nd open house on November 30th.

Commissioner Buehner reported that the City Center Advisory Commission is beginning discussions on the Fanno Creek Park Master Plan. They hope to have it completed shortly after the first of the year. They are preparing a request for proposals for a consultant to work with a citizen committee to work through the details of the Master Plan. There will be a workshop with the Planning Commission probably in February.

Commissioner Meads reported on the Park and Recreation Advisory Board. She advised that they are working with staff to request funding in the next fiscal year for start up of a recreation

program in the City. She noted that the City is recruiting to fill 2 Park Board positions whose terms expire at the end of the year. Also, another Board member will be retiring in February. The Skate Park Committee is a little behind in their schedule. It is hoped to have the Skate Park completed by the end of next summer or perhaps the fall.

Commissioner Meads also advised that the pedestrian bridge between Tigard and Tualatin is completed, but has not opened as yet. There is a trail from the Butterfly Pavilion at Cook Park down to the bridge.

Commissioner Buehner noted that, with her election to the City Council, she would be resigning from the Planning Commission by the end of December.

Commissioner Caffall reported on the Committee for Citizen Involvement. They met with Bob Roth, the City's volunteer program developer, who talked about the City's webpage and job descriptions for volunteers. The South Pacific Island representatives met with the CCI again. The CCI will try to find funds to help the group. The CCI will work with the schools to set up informational meetings with the South Pacific Island community and send home reports with the students to solicit parent participation.

4. APPROVE MEETING MINUTES

It was moved and seconded to approve the November 6, 2006 meeting minutes as submitted. The motion passed by a vote of 5-0. Commissioner Harbison abstained.

5. PUBLIC HEARING

5.1 DEVELOPMENT CODE AMENDMENT (DCA) 2006-00005 HISTORIC OVERLAY CONDITIONAL USE CODE AMENDMENT

REQUEST: The applicant is requesting to amend various chapters of the City of Tigard Community Development Code to allow meetings and events as a conditional use on properties with Historic Overlays and/or on the National Register of Historic Places in residential zones. The following is a summary of the proposed amendments including the affected code chapters: 1). Chapter 18.130 USE CLASSIFICATIONS: Add a "Meeting and Event Use" category; 2). Chapter 18.330 CONDITIONAL USE: Add additional development standards for conditional use types to allow "Meeting and Event Uses" in residential zones with a Historic District overlay zone and/or on the National Register of Historic Places; 3). Chapter 18.510 RESIDENTIAL ZONING DISTRICTS (Table 18.510.1 - Use Table): Add a use category for "Historic Place Meetings and Events" as a conditional use in all residential zoning districts that have a Historic Overlay and/or are on the National Register of Historic Places; and 4). Chapter 18.740 HISTORIC OVERLAY: Add a General Provision to the Historic Overlay chapter to include "Incentives for maintenance" provision. **LOCATION:** All residential zones with Historic Overlays. **ZONE:** All residential zones with a Historic Overlay Designation. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.120, 18.130, 18.330, 18.390, 18.510 and 18.740; Comprehensive Plan Policies 1 and 2; and Statewide Planning Goal 1.

STAFF REPORT

Associate Planner Sean Farrelly presented the staff report on behalf of the City. He gave a PowerPoint presentation (Exhibits A and B) to provide details of the proposed code amendment.

The Planning Commission had the following questions and comments (staff responses are in italics):

- Who reviews the parking plan? *Farrelly answered that the parking plan must be submitted at the time the conditional use permit is requested. It is confirmation that adequate parking can be accommodated. He noted that of the 8 residential properties included in the proposal, 3 might be able to provide off-street parking for 200 attendees.*
- Which historical properties are currently private residences? *Private residences include the Charles F. Tigard House, the Tigard Farmhouse, the Seven Gables Upshaw House, the Gaarde House, and the Shaver-Bilyeu House (Quello House).*
- Other than the Quello House, have any other residences been used for events? *Farrelly answered, no, not to his knowledge.*
- Were the development standards developed by staff? *Yes*
- If the proposal is turned down by the Planning Commission, what happens? *Council will still hold a public hearing, and will be informed that the Planning Commission recommended denial.*
- The impetus is to generate revenue to offset costs of maintenance and upkeep. Is there anything in the proposal that requires the funds be used for maintenance? *No*
- What was the basis for the recommendation of 7:00 a.m. to 9:00 p.m. time period? *Farrelly said this follows the current noise code. Planning Commissioners advised that the current noise code is 7:00 a.m. to 7:00 p.m.*
- What was the basis for the 40 and 200 numbers for attendees? *Staff met with Code Enforcement and other planners and chose numbers that balanced interests and seemed plausible.*
- Was the Fire Marshall contacted to determine occupancy? *No. The Commission recommended soliciting input from the Fire Marshall. This could be made part of the conditional use permit process.*
- The proposal doesn't have any spacing requirements for the number of events. The events could all be held over a short period of time – all during the summer months with nothing during the winter.
- What are the requirements for obtaining a conditional use permit and what methods are there to enforce the conditions? *There would be a public hearing before a Hearings Officer. They would have to file a site plan showing how the conditional use would work and how they could meet the development standards. Each granting of a conditional use for a property would involve a public hearing. For each event, they would have to file a parking plan proving they are following the conditional use approval. The conditional use approval would only continue as long as the property is registered as a historic property. If the designation was gone, the conditional use would cease.*
- Is there a fee? *There is a one time application fee of approximately \$2,000-\$3,000.*

- At the time they file a parking plan, would they be required to see if there are other events going on in the area? *Yes. They would be required to file a parking plan one week in advance, so staff could check to see if there are other events going on in the area at the same time. The Planning Commission remarked that one week may not be enough time to review the parking plan; the review timeframe should be considerably longer. There could be conflicts with other events. Usually events are known about 3 months in advance. Parking plans could be submitted at least 2 months ahead.*
- There is nothing in the proposed amendment that requires notification of events to surrounding neighbors so they could be sufficiently prepared. *That would require another permit process.*
- Commissioner Harbison didn't think parking would be that big of an issue. Parking-constrained sites can be addressed during the conditional use hearing. He doesn't believe there's a need to do something for each event. Other Commissioners disagreed.
- Did staff consider charging a nominal fee to review the parking plans? *It makes sense; staff will consider it.*
- What has been the request for this type of activity for properties other than the Quello house? *None*
- What are the cost benefits for a historic overlay vs. historic register? *The Tigard historic overlay is locally designated. It's voluntary for the property owners. After it's designated, any kind of exterior alterations have to be approved by the City to make sure it keeps in character with the period of the home. It's a much more rigorous process to get on the National Register. Specialists are hired to prove the structure is worth being approved by the National Register. Once it is on the National Register, property taxes are frozen for a period of time.*
- Has the City ever considered a tax incentive to defer maintenance costs? *Not that staff is aware of.*
- Did the request for the City to be the applicant come from multiple owners of these homes? *No, City Council directed staff to do the code amendment.*
- Are ADA facilities part of the permitting process? *No, this was not included. Sometimes this is an issue for historic properties since they were built before there were ADA requirements. In the City's code, there is an exception for historic properties. It was suggested the City pattern their code to what the federal program has done (wheelchair access ramps and lavatory facilities).*
- What about restroom facilities for 200 attendees? How many porta-potties will there be on the site? *This could be a concern. This is something that should be addressed before they receive a conditional use permit.*
- Has the Shaver-Bilyeu House ever been requested to be put on the local registry? *Not that we know of.*

PUBLIC TESTIMONY – IN FAVOR

Dan Quello, 16445 SW 92nd Ave., Tigard, OR 97224 provided his personal history of the Shaver-Bilyeu House (aka Quello House) which he bought 16 years ago. He advised that the

house has been used in the past for weddings, which eventually became an issue for some of the neighbors. A proposal to use the facility as a bed and breakfast as well as a place to conduct garden weddings was brought before the City Council a few years ago. The results of the hearing were mixed, and the request was denied.

This last year, the Quellos have hosted some non-profit events. Two City Councilors attended one of the events and were impressed with the property. The Councilors came to the Quellos and said there ought to be a way that the facility could be used by the public. Mr. Quello sent a letter to Councilor Sherwood who shared the letter with Council. It was decided to start the process again. He believes staff has come up with suitable language that would allow historic facilities to host events for the public.

Mr. Quello read an article from the Oregonian about a historic inn in the Corbett area which will now be able to re-open as a business after being a residence for several years. The Columbia River Gorge Commission adopted new rules allowing commercial use in some historic buildings.

Mr. Quello believes the current request of 6 large events a year is modest and manageable. He advised he has 50 parking spaces in front of his house, as well as 250' of driveway, 1 acre of pasture, and a lawn which can provide additional parking. He also advised that the house has 5 bathrooms and 2 kitchens (1 for catering). He noted that a movie location scout approached him a year ago about filming a wedding on his property for a movie. They got approval from City staff and the wedding was held this past September. During the wedding, Mr. Quello walked around the neighborhood to check the noise level. He couldn't hear anything.

Commissioner Walsh asked Mr. Quello if he had considered using a section of the property further away from the neighbors for hosting events. Mr. Quello said he has held events on a different section of the property. It is a possibility and he is open to it.

President Inman asked Mr. Quello why he has not requested local historic overlay of the property. Mr. Quello answered that it seems there is no benefit. The property is already on National Registry. President Inman asked if Mr. Quello would be agreeable to a reduction in the number of attendees or the number of events. Mr. Quello said he is open to compromise.

Mr. Quello reviewed the tax benefits of owning historic property. He advised that when he applied to the National Registry, he received a freeze in the tax assessment for the property. The freeze is good for 15 years, after which time he will need to reapply for another 15 years. The renewed assessment would be at the current appraised value.

Commissioner Caffall believes the City needs to maintain and keep some of these older houses. He would prefer to see this type of house remain in perpetuity rather than selling it to developers.

Jacque Quello, 16445 SW 92nd Ave., Tigard, OR 97224 signed up to speak, but did not speak.

Ron Soberg, 11333 SW Gaarde Street, Tigard, OR 97224, testified that he is the current resident of the Gaarde House. He believes that a lot of the comments he has heard shouldn't hold true for just owners of historic properties; they should apply for all homes in Tigard. If someone is having 20-30 visitors to their home, they should go through the same process that is being requested of historic properties. The issues are the same. Living in a community requires the need for respect from neighbors and the need to respect neighbors in turn. He also advised that when he bought the Gaarde House from the City of Tigard, he paid for everything himself – he did not receive any support from the City. Commissioner Walsh agreed that if someone is having a private party, they should let the neighbors know. However, he sees a distinction when it comes to commercial use. Commissioner Meads brought up the number of events being proposed. Individual homeowners would not likely hold 6 large events in a year. Mr. Soberg said that, for him, the number of events in a year wouldn't make that much difference as would the number of attendees.

PUBLIC TESTIMONY – IN OPPOSITION

Cheryl Cappelli, 16405 SW 93rd Ave., Tigard 97224 read a letter to the Commission (Exhibit C). Commissioner Meads asked when the 3 year period occurred. Ms. Cappelli answered it was from 1998 to 2000. She advised that she has also heard noise and has seen parking problems from the more recent events as well. She noted that there is a gully running along the properties that funnels the sound to the neighborhood. With regard to noise from the high school and Cook Park events, she said they live there knowing there would be that kind of use. President Inman asked if the number of attendees makes a difference. Ms. Cappelli said she hears the events that are held outside. President Inman asked if there were any pieces of the proposal that could be changed to make it more palatable. Ms. Cappelli thinks it's a commercial vs. residential issue.

Mike Brewin, 11225 SW Morgen Court, Tigard 97223 showed pictures of the different historic properties impacted by the proposed amendment. He also provided a copy of his own recommended changes to the proposed code language (Exhibit D). He testified that he lives next to the Charles F. Tigard home. He noted that this proposal will impact the whole city. In the future, more properties will apply for historic designation and be able to have events that their houses were never designed for. Some of the issues he pointed out with the historic properties include having no sidewalks, not enough parking, gravel driveways between the houses, close-by neighbors, and busy streets. These homes were designed for domestic use. The Columbia Gorge Inn (mentioned by Mr. Quello) was designed as an inn.

Mr. Brewin advised that the John F. Tigard House is owned by the City and is maintained by the Tigard Historical Association. They have meetings there once a month. Even though it's in a residential area, the house is used appropriately for historical purposes. It's a non-

profit and serves the public 100%. He does not believe something commercial should be in a residential zone.

Sharon Brewin, 11225 SW Morgen Court, Tigard 97224, signed up to speak, but did not speak.

Caroline Holzwarth, 9240 SW Millen, Tigard 97224 advised that her property backs up to the Quello property. She advised that the Quello home is very close to the rest of the homes in the neighborhood. She said that she has been able to overhear vows being said and has changed her schedule so as not to interrupt weddings. She has been kept awake from the noise and has experienced increased traffic in the neighborhood. She does not believe that the Quello house can be guaranteed parking as needed. She believes changes in the neighborhood should be for the majority, not for one individual. President Inman asked if there was anything in the proposal that would make it more palatable. Ms. Holzwarth said maybe, if the weddings were held at a different location. She noted that there has been a big change in the traffic pattern. On Saturdays and Sundays throughout the entire summer, parking is very busy and it's sometimes difficult to get out from Millen onto 92nd Ave. It's busy from 7:00 a.m. to 10:00 p.m. Neighbors knew when they moved into their homes that there would be events at the high school and Cook Park. Adding just one more thing to the neighborhood is too much.

Larry Galizio, 16455 SW 93rd, Tigard 97224, noted that his deck looks into the Quello backyard. When the weddings were happening in 2000, people would be looking down into his backyard. There was no privacy during that time. He is not in favor of moving the weddings closer to his yard. He said that the Quello house is in an area zoned residential, specifically in a R-4.5 low density zone. Under purpose in terms of such zoning designation, it states, "Preserve neighborhood livability as its primary purpose." Regulations should protect the livability of existing and future residential neighborhoods. Any non-residential use should be at appropriate locations and at an appropriate scale. He urges that the Commission not re-zone the whole area. There is one person who has gone to Council members proposing a change for the entire City. He thinks this is problematic. He asked if the Quello house would be able to accommodate 200 attendees in their back yard. The Commission answered yes.

Mr. Galizio pointed out that a memo dated July 25, 2000 states, "Because weddings occur on weekends when no Code Compliance Specialist is working, enforcement of any conditions related to noise would be difficult." He asked if the City would be creating another FTE for Code Compliance or is the Planning Commission going to stipulate that the events cannot take place on weekends or whenever Compliance Officers are not available. He noted that in the same July 2000 report, the staff recommendation found it appropriate to allow historic sites to offer bed and breakfast facilities as approved by a conditional use, subject to certain conditions, such as 5 guest rooms, on-site parking of one space per room, and a City overlay designation. He asked what has changed in 6 years that we go from a B & B with a maximum of 5 parked cars to 18 events, 6 of which that can have up to 200 people.

Mr. Galizio listed the many status quo events already taking place close to the neighborhood. With those events, there is illegal parking, noise, and trash. He believes it is also a safety hazard. He advised that on July 14, 1999, the municipal court found that Dan Quello was in violation of 4 sections of the Municipal Code by conducting weddings and receptions, events and meetings at the subject property without first obtaining a conditional use permit, zoning code amendment, or authorization from the City. Mr. Galizio thinks past behavior should be taken into consideration.

Mr. Galizio wonders why this is the only historical site in Tigard without a historic overlay zone designation. He wonders if it may be because of costs associated with the historic overlay and the requirement of a Type II review of exterior alterations. He believes that if the goal of the code change is to encourage the protection of historic resources, then it would logically follow that only properties within a historic overlay zone designation should fall within the parameters of the proposed code change. He notes that there is nothing in the proposed amendment that guarantees where money made from events would go. The State already gives a tax break. He believes that it should be non-profit status or the money should go into a pot and perhaps managed by a group for properties in most need of repair.

Commissioner Walsh asked Mr. Galizio if he has seen anything in the State Legislature that addresses this in other jurisdictions. Mr. Galizio said he would be glad to work with Tigard and Mr. Quello to consider other ideas. He thinks historic preservation is significant. He would suggest looking first to areas within commercial zones for for-profit enterprises. Beyond that, he suggests looking at what other cities do and at the state level. Commissioner Meads asked what the Quellos' property taxes would be if they didn't have the freeze. It was estimated to be approximately \$7,000 - \$8,000. Mr. Galizio thinks this is a well-intentioned, misguided attempt to preserve historical integrity of the City. He thinks we can do a lot better.

Mark Walker and Lisa Walker, 9174 SW Waverly Dr., Tigard 97224 left the meeting before speaking.

Gail Dowler, 16515 SW 93rd Ave., Tigard 97224, testified that she lives about 8 houses down the gully from the Quello house. She believes that the 18 events allowed by the proposal will probably all occur during the summer months. With the last experience they had with an event, they weren't able to use their deck, were unable to barbeque, and were unable to open their windows to cool down. Even inside the house with the windows closed, they could still hear the noise because of the echo effect. She doesn't see why the neighbors should have to pay the price for Mr. Quello's decision to purchase his property. Her letter of testimony is attached as Exhibit E. Commissioner Meads asked if Ms. Dowler has experienced any noise from the more recent events. Ms. Dowler answered no, but they don't generally sit outside on the deck at that time of year.

Richard Smith, 16435 SW 93rd, Tigard 97224 testified that he lives directly behind the Quello property. He stated that he can hear people speaking in normal voices from the Quello property, about 250'-300' away. He does not believe the Quello house is a historical house. It's been altered and moved from its original location across the street on the high school property. He noted that the property is a historical piece of land, but the house has nothing to do with it. The original house was a farm home, but it's been modified several times. In addition, the property was all part of one huge parcel at one time which included the property where the Durham School is located.

Mr. Smith noted that if there will be public access to the property, then it has to meet ADA requirements. He also advised that during one of the more recent events at the Quello house, a complaint was called into the police about the noise. He urged the Planning Commission to not approve the proposal. Commissioner Caffall noted that the other properties on the list don't look like they would hold the kind of events that Mr. Quello would hold. He asked if the events were reduced to 3 or 4 a year, would it still be a big issue. Mr. Smith believes it would still be a big issue. In the past, there was no notification to neighbors about the parties. If there was notification, the neighbors could choose to leave. He thinks notification is very important.

Carol Gifford, 9255 SW Millen Dr., Tigard 97224, testified that she knew about the park and high school when she bought her home, but the high school has since put in Astroturf and rents out the fields throughout the year. She notes that her neighborhood has become a rec center. Regarding compromise, the neighbors have been through this before. The previous decision was no, and yet, there have been events. The word "compromise" doesn't hold a lot with the neighbors. She advised that the selling of the Quello property to build houses has been held over the neighbors' heads. She thinks the neighborhood is overused and would like to see a traffic study done. Also, the only crosswalk from 92nd above the park is at the crest of hill.

PUBLIC HEARING CLOSED

President Inman asked what options the Planning Commission had. Staff advised that the Commission can recommend denial, approval, or approval with changes. This is a legislative process where the Commission makes a recommendation to the City Council. Dick Bewersdorff recommended that the proposal not be sent back for more revisions. He thinks a decision needs to be made on the issues, relative to what's good for the community and the neighborhood. He doesn't think there's any way to further craft language to make it any better without having the same issues.

Commissioner Harbison said that people know what to expect when they move next to a high school. When people moved into this neighborhood, weddings weren't being performed. That could be expected in a commercial zone. He believes 200 people are a lot of people to have next to you; 40 is also a lot. He confirmed that Mr. Quello could still hold events if they

were non-profit. Commissioner Harbison believes that this is the only property that's even feasible to hold a party.

Commissioner Meads said that people running businesses in their home are not impacting their neighbors. When commercial endeavors are moved outside, where there's no constraint in a residential area, there's going to be an impact. From the testimony she's heard tonight, it's a substantial impact. She doesn't see that this is the avenue to take for generating money for the home. She also thinks the proposal seems like it's for 1 person; it's not a citywide benefit.

Commissioner Buehner sees a number of issues which, according to staff, may not be able to be resolved with the proposed code. She believes it's in violation of the current noise code, there is no control over the spacing of events, it's too many people to have in a residential neighborhood, there's the issue of restroom facilities, how would neighbors get noticed, there are parking problems, insufficient lead time for review of parking, and requiring a contract to provide parking for events. She believes there are so many problems with the proposed ordinance that it's not going to make sense.

Commissioner Caffall concurred. He doesn't believe there's anyway to adjust the code. Even having just 25 people would create an issue. He knows that we can't stop non-profit events, but thinks Mr. Quello should be a good neighbor and let the neighbors know what's going on. The real question is, if it was in your backyard, would you want it? If so, how would you want it? He doesn't think we can write a code for it and thinks it should be left status quo.

Commissioner Walsh agrees with many of the comments. His primary issue is justification. Why was it brought forward; what is the driving force? He is sympathetic to need for upkeep and the cost involved, but he doesn't see that this is the solution. He doesn't see a linkage between the revenue raised through a commercial venture going back to the upkeep. This amendment is for everyone. The next person may have no intention of keeping up the facility. Also, he sees that this is primarily driven for 1 party. He doesn't want to see the code changed for 1 party. He agrees with staff that the Planning Commission needs to take action and not try to re-word the language.

President Inman agrees with much of what's been said. It's a beautiful piece of property, but she doesn't see the justification for making a change to the City code. So much of it seems to be centered on this 1 particular piece of property. She agrees that parking is a huge issue and there are a lot of safety and noise issues as well.

Commissioner Buehner moved that the Planning Commission recommend denial of Development Code Amendment (DCA) 2006-00005 Historic Overlay Conditional Use Code Amendment, based on the staff report, the testimony given tonight and provided prior to the hearing this evening. Commissioner Meads seconded the motion. Staff announced that the public hearing with City Council will be held on December 12th.

6. DOWNTOWN DEVELOPMENT CODE

Dick Bewersdorff distributed a copy of the proposed calendar for the Tigard Downtown Development Code Amendments (Exhibit F). Planning Commissioners can email any questions or comments to Ron Bunch.

7. COMPREHENSIVE PLAN UPDATE

• ECONOMY REPORT

Sean Farrelly gave a PowerPoint on the economy section of the Comprehensive Plan update (Exhibit G). The Planning Commission had the following comments/questions:

- How many jobs were added with the Washington Square expansion? *We will have to research that.*
- The Metro-assigned capacity of 17,000 jobs is a scary number. It will have to be in the service sector, there's no place to expand.
- Will the Planning Commission have to look at expanding Commercial and Industrial zoning? If so, where?
- What happens if we don't meet Metro's number? *We would have to justify that we have the capacity for that many jobs. We can't force people to bring jobs here.*
- Hopefully, there will be a lot more employment Downtown over the next 10 or 15 years.
- Also, there are big chunks of land left in the Tigard Triangle.
- It's surprising that Tigard does not have a formal Citywide economic development strategy.
- It is thought that when the Downtown Plan is complete, that FTE position could possibly morph into an Economic Development Director.
- Instead of throwing in industrial lands randomly, it makes more sense to ensure we keep what we have.
- What are our strengths – proximity to Portland, I-5 Corridor and other huge assets. We should focus on those.
- It would be useful to see what difference the Washington Square expansion has made.
- One-third of Bridgeport Village is in the City.
- There are 2 large office buildings going in at 72nd and Durham.
- How about the land north of the Library site? *It's not suitable for most industrial purposes because of the slope.*
- Most of our industrial land is based along the railroad line, but that's a descending way to transport goods.

8. OTHER BUSINESS

The Commission held a short discussion about meeting protocol when there's a disagreement between Commissioners.

9. ADJOURNMENT

The meeting adjourned at 10:21 p.m.

Jerree Lewis, Planning Commission Secretary

ATTEST: President Jodie Inman

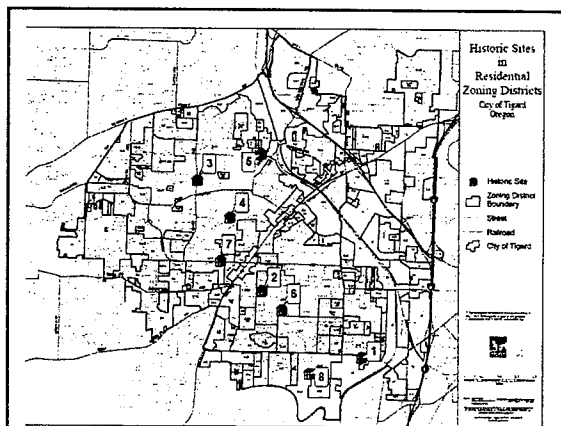
Historic Overlay Conditional Use Code Amendment (DCA) 2006-00005

Planning Commission Presentation

Sean Farrelly
Associate Planner
City of Tigard
November 20, 2006

Historic Properties in Tigard

- Represent surviving examples of architectural types or are associated with important figures in the history of the Tigard community.
- There are ten designated historic properties in Tigard (nine with Tigard Historic overlay zone)
- Two properties are on the National Register of Historic Places
- Eight historic properties are in residential zones



1. Durham Elementary School



- 8040 SW Durham Rd
- School use
- Surrounding Zoning: R-12

2. John Tigard House



- 10310 SW Canterbury Lane
- On National Register of Historic Places
- Used as a museum
- Lot owned by Tigard Water District
- Surrounding Zoning: R-4.5

3. "Ye-Olde" Windmill



- 121st Street and Katherine St.
- .13 acre site
- Public park
- Surrounding Zoning: R-4.5

4. Charles F. Tigard House



- 11180 SW Fonner St.
- 3000 s.f. house
- 1.5 acre lot
- Surrounding Zoning: R-4.5

5. Tigard Farmhouse and Windmill



- 10525 SW Tigard St.
- 2600 s.f. house
- .5 acre lot
- Surrounding Zoning: R-12

6. Seven Gables Upshaw House



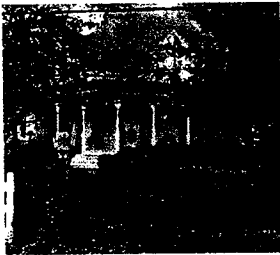
- 9890 SW Peppertree Lane
- 2500 s.f. house
- .5 acre lot
- Surrounding Zoning: R-3.5

7. Gaarde House



- 11333 Gaarde St
- 2900 s.f. house
- .25 acre lot
- Surrounding Zoning: R-4.5

8. Shaver-Bilyeu House (aka Quello House)



- 16445 SW 92nd Ave.
- On National Register of Historic Places (does not have Tigard Historic Overlay)
- 3600 s.f. house
- 2 acre lot
- Zoning: R-4.5

Historic Properties in Tigard

- Comprehensive Plan identifies them as important as related to the overall development of Tigard as a diverse community.
- Tigard historic overlay does not offer any special benefit. (Properties on the National Register are eligible for some tax benefits.)
- Owners can request removal of designation at any time, meaning the potential loss of resource.

Proposed Code Amendment

- City Council directed staff to explore ways that owners of historic properties could generate income to assist in preservation, upkeep and restoration.
- One potential source is to allow the rental of historic resources for meetings and events, subject to conditional use standards.

Proposed Code Amendment

Amends:

- Use Classifications Chapter, 18.130
Adds a definition of Meetings and Events Use (for direct or indirect compensation)
- Residential Zoning Districts, 18.510
Allows Meetings and Events as a Conditional Use in Properties with Historic Overlay and/or on National Register of Historic Places
- Historic Overlay, 18.740
Adds an "incentives for maintenance" section

Proposed Code Amendment

Amends:

- Conditional Use Chapter, 18.330
(Requires a public hearing before a Hearings Officer)
Add Development Standards for Meeting and Event Uses in Historic Properties in Residential Zones

Proposed Development Standards

- Yearly maximum number of events: 18
- Maximum number of attendees: 12 events- 40 max, 6 events- 200 max
- Hours of operation: 7 AM- 9 PM (all activities must cease at 9 PM)
- No outdoor amplified sound systems
- Parking plan required for each event
- Violations of the conditions of approval or code could result in the revocation of the conditional use permit

Historic Sites in Residential Zones

Conclusion

- The proposed Development Code Amendment complies with the Statewide Planning Goals, the Tigard Comprehensive Plan, and applicable provisions of the City's implementing ordinances.
- The proposed code language attempts to strike a balance between the interests of those living in residential zones, the owners of historic properties who might wish to engage in this use, and the Tigard community, which has an interest in the preservation of historic resources.

Staff Recommendation

If the Planning Commission can find that the proposal is compatible with the surrounding residential uses, and provides adequate guidelines for approval, the Commission should recommend approval of the code amendments to the Tigard City Council, as determined through the public hearing process.

EX. B

Historic Site	Site Characteristics	On-street parking	Potential Off-street parking	Potential: up to 40 attendees	Potential: up to 200 attendees
1. Durham Elementary School	Developed with school and large parking lot. Surrounded by industrial uses	No	Yes	Possible	Possible
2. John F. Tigard House	Small house, used as a museum, lot owned by Water District	No	Church parking lot across the street	Possible	Possible
3. "Ye-Olde" Windmill	Windmill is only structure, lot is a .13 acre park	No	No	Unlikely	Unlikely
4. Charles F. Tigard House	3000 square ft. house on 1.5 acre lot	No	On-site?	Possible	Possible
5. Tigard Farmhouse and Windmill	2600 square ft. house on ½ acre lot	No	No	Possible	Unlikely
6. Seven Gables Upshaw House	2500 square ft. house on ½ acre lot	No	No	Possible	Unlikely
7. Gaarde House	2900 square ft. house on ¼ acre lot	No	No	Possible	Unlikely
8. Shaver-Bilyeu House	3600 square ft. house on 2 acre lot	Limited	On-site and high school across the street	Possible	Possible

Revised table: Historic Sites in Residential Zones

Agenda Item: 5.1
Hearing Date: November 20, 2006 Time: 7:00 PM

**STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



SECTION I. APPLICATION SUMMARY

FILE NAME: DEVELOPMENT CODE AMENDMENT TO THE USE CLASSIFICATIONS CHAPTER (18.130), CONDITIONAL USE CHAPTER (18.330), RESIDENTIAL ZONING DISTRICTS CHAPTER (18.510), AND HISTORIC OVERLAY CHAPTER (18.740)

FILE NO.: Development Code Amendment (DCA) DCA2006-00005

PROPOSAL: The City is requesting approval of a Development Code Amendment to amend the Use Classifications Chapter (18.130), Conditional Use Chapter (18.330), Residential Zoning Districts Chapter (18.510), and Historic Overlay Chapter (18.740) of the Tigard Community Development Code. The proposed amendments would add a definition of Meetings and Events Use to the Code and allow Meetings and Events Use as a Conditional Use in Properties with a Historic Overlay, and/or on the National Register of Historic Places.

APPLICANT: City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

OWNER: N/A

LOCATION: All residential zones with Historic Overlays and/or a property on the National Register of Historic Places

**COMP PLAN/
ZONING**

DESIGNATION: All residential zones

**APPLICABLE
REVIEW**

CRITERIA: Community Development Code Chapters 18.130.020, 18.330, 18.380.020, 18.390.60, 18.510, and 18.740; Comprehensive Plan Policies 1, 2, and 3.7.1; and Statewide Planning Goals 1, 2, and 5.

SECTION II. STAFF RECOMMENDATION

If the Planning Commission can find that the proposal is compatible with the surrounding residential uses, and provides adequate guidelines for approval, the Commission should recommend approval to the Tigard City Council to amend the Use Classifications Chapter (18.130), Conditional Use Chapter (18.330), Residential Zoning Districts Chapter (18.510), and Historic Overlay Chapter (18.740) of the Tigard Community Development Code, as determined through the public hearing process.

SECTION III. BACKGROUND INFORMATION

The City of Tigard has several properties of historic interest. The properties are notable because they represent surviving examples of architectural types or are associated with important figures in the history of the Tigard community. In the Tigard Comprehensive Plan these resources were determined to be significant, outstanding, and needed as related to the overall development of Tigard as a diverse community. Nine properties have Historic Overlay designations. One of these properties is also on the National Register of Historic Properties. An additional property is on the National Register, but does not have a Historic Overlay designation. See Map A for locations of the sites.

The owners of properties on the National Register of Historic Places receive some State administered tax benefits. However properties with only the Tigard Historic Overlay do not receive any special benefit. There are associated costs with having a historic overlay, including the requirement of a Type II review of for exterior alternations. Owners of properties with Historic Overlays, or on the National Register, can request removal of the designation at any time. Without the designation the historical, architectural, or cultural resources are often lost.

To encourage the protection of historic resources, the City Council directed staff to investigate ways in which owners of historic properties could generate income that could assist in their preservation, upkeep, and restoration, while balancing the interest of neighboring properties in Residential zones. One potential source is to allow the rental of historic resources for meetings and events, subject to conditional use standards. The conditions to allow this use would include limits on the number of events and attendees, noise, and parking. A total of 18 events could be held annually-12 events with up to 40 attendees and 6 events with up to 200 attendees.

Staff reviewed the eight historic resources that are in residential zones and prepared Table 1. The two historic properties in commercial zones would presently permit this use. Meetings would most likely be considered an accessory use in the Durham School, at this time.

Table 1: Historic Sites in Residential Zones

HISTORIC SITE	SITE CHARACTERISTICS	MEETING AND EVENT USE POTENTIAL ¹	
		UP TO 40 ATTENDEES	UP TO 200 ATTENDEES
1. Durham Elementary School	Developed with school and large parking lot. Surrounded by industrial uses	Possible	Possible
2. John F. Tigard House	Small house, used as a museum, lot owned by Water District	Possible	Possible
3. "Ye-Olde" Windmill	Windmill is only structure, lot is a .13 acre park	Unlikely	Unlikely
4. Charles F. Tigard House	3000 square ft. house on 1.5 acre lot	Possible	Possible
5. Tigard Farmhouse and Windmill	2600 square ft. house on ½ acre lot	Possible	Possible
6. Seven Gables Upshaw House	2500 square ft. house on ½ acre lot	Possible	Possible
7. Gaarde House	2900 square ft. house on ¼ acre lot	Possible	Unlikely
8. Shaver-Bilyeu House	3600 square ft. house on 2 acre lot	Possible	Possible

¹ Staff included all properties with a house as having the potential to have 40 attendees at a meeting or event. Staff included properties with lots .5 acres or larger as having the potential to have 200 attendees at a meeting or event. This doesn't take into account whether the site could realistically meet the conditional use requirements.

In 2000, a previous Zoning Ordinance Amendment (ZOA2000-0001) sought to conditionally allow bed and breakfast establishments and weddings in Historic Overlay zones. The City Council voted to deny the amendment.

A brief search of the codes of neighboring communities did not reveal any language that was identical to the proposed language. Some jurisdictions allow Historic properties only the uses that are allowed in the underlying zone where it is located. However, the codes of the Milwaukie, Washington County and Clackamas County have provisions allowing additional conditional uses, including restaurants, offices, bed and breakfasts and community centers for civic and cultural events, for Historic properties in residential zones that meet certain criteria (including being located on an arterial street.) Additionally the city of Troutdale allows the Planning Commission to authorize any use as a conditional use which can be shown to contribute to the preservation or reuse of the site or structure, subject to the Conditional Use criteria.

SECTION IV. APPLICABLE CRITERIA AND FINDINGS

Chapter 18.380 states that legislative text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060.G.

Chapter 18.390.060.G states that the recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

THE STATEWIDE PLANNING GOALS AND GUIDELINES ADOPTED UNDER OREGON REVISED STATUTES CHAPTER 197;

Notice was provided to DLCD 45 days prior to the first scheduled public hearing as required. In addition, the Tigard Development Code and Comprehensive Plan have been acknowledged by DLCD. The following Statewide Planning Goals are applicable to this proposal:

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and for changes to the Comprehensive Plan and implementing documents. This goal was met by complying with the Tigard Development Code notice requirements set forth in Chapter 18.390. Notice has been published in the Tigard Times newspaper prior to the public hearing. Two Public Hearings are being held (one before the Planning Commission and the second before the City Council) in which public input is welcome.

Notice was also sent to 830 property owners, all the properties within a 500 foot radius of a Historic property in a residential zone.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process for and policies to review changes to the Development Code consistent with Goal 2. The City's plan provides analysis and policies with which to evaluate a request for amending the Code consistent with Goal 2.

Statewide Planning Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources:

Goal 5 establishes a process for natural and cultural resources to be inventoried and evaluated. This goal has been met by the inventory of local historic resources and the subsequent comprehensive plan updates that identified additional resources. The proposed code amendment could provide the owners of the historic properties additional income that would assist in the preservation, upkeep, and restoration of the properties.

APPLICABLE METRO REGULATIONS:

There are no applicable Metro regulations that this amendment directly impacts.

APPLICABLE COMPREHENSIVE PLAN POLICIES:

Comprehensive Plan Policy 1.1.1: General Policies

This policy states that all future legislative changes shall be consistent with the Statewide Planning Goals and the Regional Plan adopted by Metro. As indicated above under the individual Statewide and Regional Plan goals applicable to this proposed amendment, the amendment is consistent with the Statewide Goals and the Regional Plan.

Comprehensive Plan Policies 2.1.1, 2.1.2, and 2.1.3.: Citizen Involvement

These policies state that the City shall maintain an ongoing citizen involvement program, provide opportunities for citizen involvement appropriate to the scale of the planning effort and that information on land use planning issues shall be available in understandable form for all interested citizens.

This goal has been met by complying with the Tigard Development Code notice requirements set forth in Chapter 18.390. Notice of the Planning Commission public hearing was published in the Tigard Times on November 2, 2006. Notice will be published again prior to the City Council public hearing. Notice was also sent to all of the property owners within a 500 foot radius of a Historic property in a residential zone (approximately 830 owners). The written notices invited public input and included the phone number and e-mail address of a contact person to answer any questions.

Comprehensive Plan Policy 3.7.1: Historical-Cultural Resources

The policy states "The City shall identify and promote the preservation and protection of historically and culturally significant structures, sites, objects and districts within Tigard." The implementation strategy states "To preserve the community's history, an index of historic sites shall be developed and made available to the general public. A program shall be developed to acquire and/or restore a number of historical structures identified as significant. The City should consider the renovation of a historic structure as a historic museum or cultural center and meeting hall such as Durham School, Ye-Olde Windmill, and the John F. Tigard House." The proposed amendments would likely have the result of supporting this policy by giving property owners a potential source of income that could be used to protect Tigard's Historical-Cultural Resources.

APPLICABLE PROVISIONS OF THE CITY'S IMPLEMENTING ORDINANCES.

Tigard Development Code Chapter 18.130: Use Classifications

This chapter classifies uses into a limited number of use types on the basis of common characteristics, to provide a basis for the regulation of uses in accordance with criteria which are directly relevant to the public interest.

Residents are free to hold meetings and events in their homes on a non-commercial basis. The proposed code amendment requires the addition of a definition of "Meeting and Event Use" as a Commercial Use to distinguish commercial and non-commercial meeting types. This type of use is already implicitly permitted in Commercial zones.

Tigard Development Code Chapter 18.330: Conditional Uses

The purpose of this chapter is to provide standards and procedures under which a conditional

use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met. There are certain uses which due to the nature of the impacts on surrounding land uses and public facilities require a case-by-case review and analysis.

The proposed code amendment would add a new section of development standards for conditional use approval of Meeting and Event Uses in Residential zones. The standards specify the use is only allowed in properties in a Historic Overlay zone and/or on the National Register of Historic Places. The standards also address the maximum number of events per year, maximum numbers of persons attending the meeting, hours of operation, light, noise, and parking. The standards also specify that violations of the conditions of approval or code provisions could result in the revocation of the conditional use permit by the Director.

Tigard Development Code Chapter 18.380: Zoning Map and Text Amendments

This chapter sets forth the standards and process governing legislative and quasi-judicial amendments to this title and zoning district map. Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060.G. Therefore, the proposed text amendments to the Tigard Development Code will be reviewed under the Type IV legislative procedure as set forth in the chapter.

Tigard Development Code Chapter 18.390: Decision-Making Procedures

This chapter establishes standard decision-making procedures for reviewing applications. The amendment under consideration will be reviewed under the Type IV legislative procedure as detailed in the chapter. Section 18.390.060.G states that the recommendation by the Commission, and the decision by the Council, shall be based on consideration of the following factors (reviewed above), including: 1) Statewide Planning Goals and Guidelines, 2) applicable federal or state statutes or regulations, 3) applicable Metro regulations, 4) applicable comprehensive plan policies, and 5) applicable provisions of the City's implementing ordinances.

Tigard Development Code Chapter 18.510: Residential Zoning Districts

The major purpose of the regulations governing development in residential zoning districts is to protect the livability of existing and future residential neighborhoods, by encouraging primarily residential development with compatible non-residential development. While the zone is primarily residential, such uses as schools, churches, parks and recreation facilities, and day care centers are conditional uses in residential zones. The conditional use process assures that the uses are appropriate scale and location, and that any off-site impacts are minimized.

The proposal to allow meeting and events uses in historic properties in residential zones seeks to minimize the impacts on the surrounding residences, by requiring the applicant to meet standards before receiving conditional use approval.

Tigard Development Code Chapter 18.740: Historic Overlay

Section 18.740 regulates the historic overlay. Currently, this section only regulates the designation and alterations of the properties with a historic designation and does not permit or disallow additional uses. The proposed code amendment would add a new section "Incentives for maintenance" which would allow owners of historic properties to apply for a conditional approval to allow meeting and event uses. This addition could assist in furthering two of the purposes of the chapter, to "facilitate the protection, enhancement and perpetuation of such

improvements and of such districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history" and "promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City."

SECTION V. ADDITIONAL CITY STAFF COMMENTS

The City of Tigard's Building Division, Police Department, Public Works, Long Range Planning Division and Urban Forester have had an opportunity to review this proposal and have no objections.

SECTION VI. OUTSIDE AGENCY COMMENTS

Metro, Oregon Department of Transportation, Washington County Department of Land Use and Transportation, Tualatin Hills Park and Recreation District, Tualatin Valley Fire and Rescue, Tualatin Valley Water District, Clean Water Services, the Planning Directors of the cities of Beaverton, Durham, King City, Lake Oswego, Portland, and Tualatin, and the State Historic Preservation Office were notified of the proposed amendments and did not respond.

The Oregon Department of Land Conservation and Development responded via phone and had no objections.

SECTION VII. OTHER PUBLIC COMMENT

As of November 6, 2006 two letters/e-mails and four phone calls were received by staff in response to the public notice. Two letters came from neighbors of the Shaver-Bilyeu Residence (also known as the Quello House.) The letters opposed the code amendment and stated that the meeting and commercial use would negatively impact their properties by increasing noise and traffic. The letters also noted that allowing weddings would result in drunk drivers in the neighborhood. The letters pointed out that the events would most likely take place on weekends, when no Code Enforcement officer is available to monitor noise and the other impacts.

Of the four phone calls, three inquired into the meting of the notice, and were neither pro nor con (two were from owners of historic properties, and a third was from a neighbor.) One caller registered strong disapproval at the proposal, saying that it would have the effect of reducing property values of neighboring properties, because of the increased noise and parking problems.

Additionally, prior to the notice, one phone call and two e-mails were received by staff in response to a newspaper article in the Tigard Times regarding the Quello House owner's desire to hold weddings and other events (prior to the drafting of specific code language.) One of the e-mails was neutral. The phone call and other written correspondence registered objections about the offsite impacts of allowing weddings and similar events in a residential neighborhood.

Response: In order to get a permit for this use, an owner of a historic property would have to go through a conditional use process, with a public hearing before a Hearings Officer. In order to get approval, the owner will have to prove how he or she would meet the development standards, which include complying with the noise ordinance and supplying a parking plan for each event. It is likely that the events will take place during times when no code enforcement officer is available. However, the proposed code language specifies that violations of the conditions of approval or code provisions could result in the revocation of the conditional use permit by the Director. The owner of the property would have an incentive not to generate neighbor complaints and comply

with the conditional use requirements. Violations would however require an additional process to determine whether to revoke the approval.

Please see Attachment 1 for copies of the public comment correspondence, received as of November 7, 2006.

SECTION VIII. STAFF ANALYSIS AND CONCLUSIONS

The proposed Development Code Amendment complies with the Statewide Planning Goals, the Tigard Comprehensive Plan, and applicable provisions of the City's implementing ordinances.

Staff has presented code language with which to guide and approve any of the proposed uses. It attempts to strike a balance between the interests of those living in residential zones, the owners of historic properties who would wish to engage in this use, and the Tigard community, which has an interest in the preservation of historic resources. The Planning Commission and Council will determine in their judgment whether the proposed code amendment does that or needs to be revised or denied.


ATTACHMENT:

EXHIBIT A: SUMMARY OF PROPOSED AMENDMENTS TO THE TIGARD COMMUNITY DEVELOPMENT CODE.



PREPARED BY: Sean Farrelly
Associate Planner

November 8, 2006
DATE



APPROVED BY: Richard Bewersdorff
Planning Manager

November 8, 2006
DATE

Historic Sites in Residential Zoning Districts

City of Tigard
Oregon



Historic Site



Zoning District
Boundary

Street

Railroad



City of Tigard

** The information represented on this map is current as of Nov 7, 2006. Revisions will be made as new decisions or amendments occur to alter the content of the map.



Source: City of Tigard
Metro Data Resource Center
Washington County

Cataloging: Community Development Dept.
City of Tigard
Nov. 2006

This map was derived from several databases. The City cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, any

13125 SW Hall Blvd Tigard, OR 97223 503-630-4171
http://www.tigard-ox.com

DCA 2006-00005

List of Public Correspondence:

1. Ted & Linda Moore, November 22, 2006
2. Glen Comuntzis, November 17, 2006
3. Sherilyn de La Torre & Donald J. Hook, November 20, 2006
4. Gail & Curt Dowler, November 20, 2006
5. Cheryl Cappelli, November 13, 2006
6. Michael & Sharon Brewin, November 8, 2006
7. Cary & Benton Holzwarth, October 31, 2006
8. Karen L. Butler, October 29, 2006
9. Don & Barbara Manghelli, October 25, 2006
10. Lesli R. Miller, October 4, 2006
11. Mark Walker, October 2, 2006

From: "TED MOORE" <ted.moore@yahoo.com>
To: <sean@tigard-or.gov>
Date: 11/22/2006 3:20:19 PM
Subject: Commercial Use of Private Property

Tigard City Council and Tigard Planning Commission.

It is unclear to me why you would want to grant commercial use of certain historical private properties when you would not do so for other private properties less than 20 feet away. We live 3 houses away from the old Gaarde House where our streets are already crowded with parked cars. Additional cars would really be unacceptable. I do not think this is an appropriate change for our residential area.

Ted & Linda Moore
13870 SW 114th Ave.
Tigard, Oregon 97223

2

From: Cathy Wheatley
To: Council; Woodruff Tom O
Date: 11/20/2006 3:52:55 PM
Subject: Fwd: Unlawful Zoning Change (Out of Office)

Hello,

The e-mail below got "caught" in the filter on my computer. I found it a few minutes ago and redirected it to my regular e-mail.

Cathy

Cathy Wheatley, Tigard City Recorder
639-4171 Ext. 2410
NEW E-MAIL ADDRESS:
cathy@tigard-or.gov

>>> Cathy Wheatley 11/20 3:38 PM >>>

I am out of the office until Monday, November 20. I will respond to e-mail requests on Monday, but if you need immediate assistance, please contact Deputy City Recorder Carol Krager at carolk@tigard-or.us, or you may call her at 503-718-2419.

Cathy
Telephone Number: 503-718-2140

>>> gglenc 11/17/06 20:48 >>>

TO: Mayor, City Councilors and Planning Dept. Staff

Hi Cathy,

The City of Tigard and its planning dept. are attempting to foist an illegal land-use, zoning change on the entire city, that includes the Genesis Development that in effect will allow a COMMERCIAL USE in a residential area. The City Planning Dept. and the City Council/Mayor of Tigard have demonstrated their lack of representation of the citizens and their commitment to "special interests" in this city that the VOTERS will NOT tolerate. The laws have been violated by city officials and staff.

One would have thought that the First Tuesday in November's election would have given the electeds on the Tigard city council a WAKE-UP call. Perhaps not.

As a citizen, activist, and voter in this community, I cannot allow such a major revision of zoning code to occur to jeopardize the land values of the residential properties in the Genesis Development, and other residential areas in the City of Tigard by the planning dept., its employees, the appointed commission, and the city council. The laws are being TRASHED by the City Government which will bring litigation, legislation, and political action, against it BY the citizens of this city.

Moreover, IF the planning dept. and the city council/mayor pursue such unlawful zoning changes, please understand the purpose of the electoral RECALL in Oregon. That will be employed given the abject corruption that has occurred as some of the city council members have been "entertained" by the very person who will benefit financially if such a rezoning is permitted BY that city council. Please note that the city council members who have NOT REPORTED receipt of the "value" of that entertainment from that person who is petitioning the Council, then each of the City Councilors is in CRIMINAL VIOLATION of the Oregon Ethics Code!

The next session of the Oregon Legislature will bring to bear amendments to such laws that govern the city of Tigard (i.e. the city's charter).

If the City Councilors continue on this path, there will be no reason for city residents to remain IN the city of Tigard and do have the ability to secede from the city of Tigard, OR, by charter the City of Tigard can be absorbed by other units of government. Those are just a few examples of "citizen action" against those who are willfully violating the state's and city's land-use laws on behalf of "cronies" in the city, at the expense of the other law-abiding residents.

Please note the wide-range of citizens who would be harmed by such a move by the city of Tigard (to rezone residential use to a commercial use) and the extent to which those residents will respond in-kind. The exposure by the city councilors and planning dept. staff IS a legal one given the "entertaining" by the petitioner OF the city councilors, each of whom now are exposed by law.

It is in the best interest of the citizens of Tigard, the Genesis neighborhood, and frankly, the political longevity of the city councilors and mayor's terms of office, to DROP such a corrupt idea as to commercialize a residential area (as in the Genesis Development).

If the city staff and councilors/mayor pursue the current course of action, citizens will be forced to bring a political, legislative, and legal response to each. Please do not cause this to occur. Drop the issue on the Monday night's agenda and leave the neighborhoods alone.

Respectfully,

Glen Comuntzis
Tigard, Oregon

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

CC: Craig Prosser; Liz Newton; Tom Coffee

From: <sisdydt@att.net>
To: <cathy@tigard-or.gov>
Date: 11/20/2006 10:38:28 AM
Subject: Chapter 18.130.020

3

We continually receive unsigned flyers encouraging us to notify both the Tigard City Council and Tigard Planning Commission (specifically the public hearings being held 11/20 and 12/12) to voice disapproval of the condition use of historical sites.

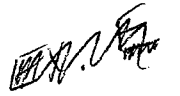
I would like to express our thoughts. We live around the corner from the Shaver-Bilyeu House, a block away from Tigard High School.

Having functions at this house is not a problem. It can not be any worse than Tigard athletic events. Noise/Music? We live next to Cook Park and there are occasional events going on there as well.

Sherilyn de la Torre
Donald J. Hook
503.639.5271

CC: <jeree@tigard-or.gov>, <sean@tigard-or.gov>

REC'D NOV 20 2006


4

Gail & Curt Dowler
16515 S.W. 93rd Street
Tigard, Oregon 97284

November 20, 2006

Tigard City Council and the
Tigard Planning Commission
City of Tigard
13125 S.W. Hall Blvd.
Tigard, Oregon 97223

Council and Planning Commission Members:

We are writing to you concerning a disturbing but not totally unexpected development regarding the proposed development code text changes for historical sites including those in residential neighborhoods. We have already experienced the "benefits" of having a historic home as the focus for weddings and their receptions hosted by Rev. Quello; these events were touted as being quiet, infrequent and small; in truth they turned out to be all summer long and anything but quiet. Most of the activities for these events occurred outside. As Tigard residences who purchased a home, pay our taxes and abide by the laws we were unable to use our deck area; open our windows; and even have refuge inside our house without the invasive sounds of loudspeakers and party chatter, exacerbated by the small canyon creek that increased the already substantial volume of the activities.

Who would consciously choose to purchase a home in a neighborhood, supposedly residential, where your neighbor has a business that increases the traffic congestion and has paid social gatherings most or every weekend to the level that you are unable to have a few friends and/or family members at your home to engage in conversation at less than a scream? These events are more than likely to occur outside; the proposed code is a maximum of 18 meetings annually; this can translate into at least one weekend day every weekend from June through September; every weekend day July and August; the scenarios are unlimited as it seems the time range is, 7:00 AM to 9:00 PM, to ensure that actual residents of the neighborhoods are unable to enjoy their property; are we expected to conduct our activities from 9:30 PM to 6:30 AM if we hope to have an atmosphere not charged with total strangers partying? One third of those meetings can have as many as 200 people! Is this compatible with a residential neighborhood? Is this a residential neighborhood you would want to live in, raise your children in and retire in? Does this kind of activity, intrusive to our personal lives, destroying our ability to enjoy our home and our outside area in the small window that is Oregon summer; is this family values and livability? Who will benefit from this, not the families who will be most effected by the invasion with our sense of home destroyed; there will be people coming into our

“residential” neighborhood that would no longer fit into the definition as residential; people who are here to have a good time and not encumbered by the concerns of the effect on the surrounding community; after all they paid to have a good time in our neighborhood.

Initially, if we recall correctly, Rev Quello explained that he wanted to recoup some of the cost in renovating a rundown property and be able to send his son to college; it is very nice that he decided to fix-up the property but it was his choice to purchase it; we think it is wonderful for a father to want his son to have a good education; but on both points we could not come to terms with why the surrounding residential neighborhood needed to give up their sense of home so he could achieve some of his financial targets. Why would the neighbors have to forego basic amenities when we all have things we would like to do; we do not expect our neighbors to relinquish important aspects of their living so we can accomplish our goals.

Thank you in advance for taking time to read this letter

Gail Dowler
Curt Dowler

November 13, 2006

RECEIVED PLANNING

Tigard Planning Commission and Tigard City Council Members
13125 SW Hall Boulevard
Tigard, Oregon 97223

NOV 14 2006

CITY OF TIGARD

Dear Tigard Planning Commission and Tigard City Council Members:

Dick Bewersdorff
Sean Farrelly

Craig Dirksen
Nick Wilson
Sydney Sherwood

Sally Harding
Tom Woodruff

Can you remember the last time you went to 14 weddings in one summer? I do. My family wasn't even invited. In fact, we didn't even have to leave home. With no place to hide, my children were subjected to drunken party conversation and pounding music as they lay in their beds at 9:00 PM. And, if we missed any of the excitement by abandoning our home to avoid the event, we could count on another party the next morning or afternoon or evening. One big party, all summer long, for over three summers in a row, until the City Council heard the voice of the residential neighborhood and pulled the plug on the Quello party business by rightfully denying a Conditional Use permit.

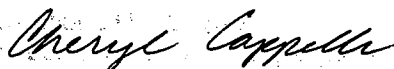
This is the first reason to vote no on this amendment: Conditional Use gives unfair advantage to one property owner. Conditional Use of the Quello property limits normal use of nearby properties. The three year test of the party train blasting through evening barbecues, Sunday morning coffee and afternoon naps demonstrated that Conditional Use is adverse to residential use. Whether the events are paid for or not, they dominate the neighborhood with noise, litter and traffic. Conditional Use has already been denied. Changing city code to permit Conditional Use is a backdoor attempt to restore the party business. But, backdoor or front door, Conditional Use unfairly disrupts the home life of neighboring properties.

Next, regarding the code change citing a need for Conditional Use to "assist in the upkeep and restoration of properties", the Quellos are already receiving special tax treatment for that purpose. According to Washington County, since 1994 the Quello home, known as the Shaver-Bilyeu House on the National Historic Register has participated in an Oregon historic tax program that freezes taxable value. The Quello home, valued at \$790,970 pays taxes on a frozen valuation of \$166,060 until June 30, 2009. The frozen valuation is then renewable for another 15 year period. It is a poke in the nose to think that avoiding taxes on at least \$625,000 over the course of 30 years isn't a substantial savings for the maintenance and restoration of this historic property.

This is the second reason to vote no on this amendment: A significant incentive program by the State of Oregon already supplies historic property owners tax relief dollars for the restoration and maintenance of their property. A secondary program for compensation appears excessive.

For the city to support unfair advantage for one property over others and to establish another incentive program when the state provides incentive via significant tax relief could be construed as special interest. Conditional Use has been tried and has failed in this residential neighborhood. I respectfully request that you vote no on DCA 2006-00005.

Sincerely,



Cheryl Cappelli
16405 SW 93rd Avenue
Tigard, Oregon 97224

6.

November 8, 2006 Submitted for the Public Record

To: Tigard City Council
Tigard Planning Commission
City of Tigard, Planning Dept.

From:

1) Michael Brewin, and
2) Sharon Brewin, property owners
11225 SW Morgen Ct., Tigard, Oregon
3) Michael Brewin/SOULJAZZ LLC
an Oregon business

Regarding: City of Tigard

DCA 2006-00005

PROPOSED AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE

Proposed Code Amendment to Allow Meeting and Event Uses as a

Conditional Use in Historic Resources in Residential Zones

Introduction: Michael and Sharon Brewin are resident property owners in Tigard, as well as owners of a local business. Mr. Brewin is a historian (US History) who has taught at Portland State University, Portland Community College, and Clackamas Community College. He has also been an events producer/consultant for almost 40 years, including directing hundreds of concerts and events at Portland State University and co-producing jazz festivals. He is an expert in these fields, and in related matters (professional musician and audio production). He has also served as a City of Tigard facilitator, on the advisory board of the Tigard Chief of Police, and as an aide to the Hon. Ron Wyden.

Mrs. Brewin is a mathematics instructor at Portland Community College, and she taught 31 years in the public schools. The Brewins have lived in Tigard since the 1980s.

Mr. Brewin, Mrs. Brewin, and Souljazz LLC hereby register their opposition to this proposal, request this written submission (and all attachments) and their objections be made part of the record, request they be notified of any subsequent hearings and a final decision, and they call into question the representations, process, legality, amendments, fairness, appropriateness, and any alleged necessity or justification provided, based upon a number of **I) procedural** and **II) substantive issues** [+photos], which we shall articulate herein.

They call for the rejection of these inequitable and invasive amendments: these proposals (as written) would introduce broad, inappropriate and prohibited commercial uses into residential zones; would generate parking/traffic problems, public noise nuisances, public safety issues, and invade citizens' privacy in residential zones; would confer monopolistic commercial uses upon a handful of private property owners for their own

benefit; and would be inequitable to the other 45,000 citizens of Tigard – residents, property owners and businesses alike. The broad uses cited/permitted in the proposal text (which was not mailed to affected property owners in the residential zones, nor were the addresses of the locations) do not even relate directly to any appropriate “historical” activities or purposes, for the most part.

There are no provisions that the city will pro-actively, responsibly enforce or accurately monitor these event uses (attendee numbers, traffic, noise, and public safety), nor the facilities (full commercial code compliance, full ADA standard disabled accessibility (including bathrooms), fire marshal and health inspections, smoke detectors/fire alarms/sprinklers and posted exits, sufficient commercial use liability insurance), nor for compliance to all federal, state, county, and local non-discrimination laws and commerce regulations which pertain to renting/leasing, hiring, and pricing policies or practices, etc. which might discriminate on the basis of race, religion, ethnicity, gender, sexual orientation, age, nationality, and political or personal beliefs. Neither should the city aid and abet nor engage in promoting the “establishment of religion” for any alleged “historical site” receiving such status or exclusive commercial use privileges.

Furthermore, the permanent introduction of such invasive “parties” and “weddings” etc. with up to 200 attendees (and probably 100 motor vehicles) would harm the real estate market sales values of adjacent and nearby properties. Since this negative situation did not exist previously, and since this would be the fault of local governmental action, then any and all such affected property owner[s] would have every right to hold the City of Tigard liable for actual and punitive damages, costs, fees, and other restitution, at any time in the future.

Please note that this hasty, ill-advised community development code amendment process originated for the sole benefit of one private property owner who apparently approached city officials, and there are fundamental problems entailed in the process, at every step.

Argument I: The process has been fundamentally flawed, misrepresented, handled incorrectly, and has not been executed in full accordance with the spirit and letter of prevailing Oregon statutes.

The process began with a Mr. Quello apparently contacting City of Tigard officials, who introduced a City Council meeting agenda item essentially on his sole behalf. The city officials and staff involved have not divulged any ex parte contacts or communications with Mr. Quello, or the nature of such contacts which have occurred, or in the past.

Misrepresentation in the Agenda:

The published Agenda for **TIGARD CITY COUNCIL
WORKSHOP AND BUSINESS MEETING
August 15, 2006**

5. DISCUSS WHETHER TO INITIATE A DEVELOPMENT CODE AMENDMENT

TO ALLOW NON-RESIDENTIAL USES IN A RESIDENTIAL ZONING DISTRICT
AT THE QUELLO HOUSE AND SIMILAR PROPERTIES

• Staff Report: Community Development Department

[See attached published Agenda]

There is no historical site or entity properly named or listed as the “Quello House.” The agenda naming the “Quello House” can not be referenced anywhere in respect to a historical site. It is a false representation of a labeled historic site with a legitimately recognized name – the Shaver-Bilyeu House [aka the Shaver House]. Persons unfamiliar with this fact or house would not know what the Agenda item referred to. This listing was misleading to the public at large.

Misrepresentation in the Minutes and by Mr. Quello:

In the City Council Workshop and Business Meeting Minutes, August 15, 2006, the term “Quello House” is used repeatedly by the city councilors and by Mr. Quello in **misrepresenting the historic “Shaver-Bilyeu House” as “Quello House.”** [See attached published Minutes, particularly pages 5 and 6.] The correct official term for the historic house and site, the Shaver-Bilyeu House, is never used or mentioned anywhere in the minutes. Any person reading the Minutes to better understand this matter was not properly informed about the actual alleged historical site being discussed, but rather was misled by the Minutes. Any person researching Tigard’s historical sites would not find “Quello House” on the City of Tigard’s page of historical sites on its website, nor in the National Historic Registry. Therefore, the City Council agenda item and discussion, and the publishing of the same in the Minutes, constituted a misrepresentation to the public. Similarly, any other members of the public observing the City Council meeting were likewise misled. [It took Mr. Brewin, a historian, himself awhile to sort out this misrepresentation and find and identify the actual misnamed site referred to in the Minutes, by comparing addresses and personally visiting all the listed Tigard historical site addresses. He was familiar with the traditional historic name, Shaver House, and the official name, the Shaver-Bilyeu House.]

The Minutes state: “Mr. Quello advised the Quello House was listed on the National Historical Site registry.” His statement is false. The “Shaver-Bilyeu House” is listed on the National Historical Site registry. On the surface, this might seem like a technicality. However, Mr. Quello has coveted the historical site name for himself, and has methodically tried to obscure the legitimate “historical” name, ever since he applied for and obtained a historical site designation (with additional benefits, including low property taxes) in 1993 based upon the Shaver-Bilyeu House and those families’ cultural histories, shortly after he purchased the property in 1990.

Further Misrepresentations by Mr. Quello:

Since purchasing the property in 1990 and obtaining an official historical designation for the Shaver-Bilyeu House in 1993, Mr. Quello has demonstrated selfish intent and unethical conduct in trying to erase the historical name designation, by willfully and

deceptively superimposing his own name on a historical site (giving the impression that it is the Quello ancestral home), and by making calculated misrepresentations, not only to the City of Tigard, but in deceptive large signage at the edge of his property, and in an expired Oregon business name registration ("The Flower Farm at the Quello House" first registered in 1999, expired 2-06-2005) and a recent registration ("The Flower Farm").

[See attached photo of the north side of the large sign: "Quello House est. 1892" (Shaver-Bilyeu_1.jpg). Attached photo of the south side of the sign: "Flower Farm est. 1892" (Shaver-Bilyeu_2.jpg). Also, does the sign conform to city code, r.e. type, size and placement, for a residentially zoned private property? On the day the photos were taken (November 7, 2006), there were no signs visible anywhere from the street that this is the "Shaver House est. 1892" (or "Shaver-Bilyeu House est. 1892").

This pattern evidenced by Mr. Quello's actions demonstrates that Mr. Quello is not a sincere or suitable guardian of a designated "historical site," that his motives are selfish, and that he seeks to gain further exclusive commercial and property privileges through misrepresentations and manipulation of a "historical site" designation, besides already paying very low assessed property taxes for such a large house on two acres. On these grounds alone, the City of Tigard should reject the proposed amendments and any future notion of extending special monopoly rights to Mr. Quello (or similar private property owners).

History:

Mr. and Mrs. Quello purchased the 2+ acres property and 3648 sq ft house and outbuildings in 1990 for only \$140,000. In 1993 they themselves sought a national historical designation for the house and property, using the Shaver and Bilyeu family histories – and thereby gaining property tax relief. They also put a misleading sign on the property, labeling the house "Quello House est. 1892." The property had allegedly previously had a sign denoting the "Shaver House."

The Secretary of State, State of Oregon, has an official website with an Oregon Historical Records Index. This index contains not only state records, but historical records for every Oregon county. The historical index does not contain a single reference to anyone named Quello. Mr. Brewin tested and verified this index by typing in various surnames of Mrs. Brewin's own family ancestors, including the historic Bird family pioneers of Champoege and Clackamas County. The Oregon historical records revealed many references to Mrs. Brewin's ancestral family members.

The National Historic Preservation Act of 1966, among other things, delineates the goals and Purpose of the Act, which include preserving "historic heritage," such as "retain the name historically associated with the building or structure," and "protect those qualities that are historically significant."

From Section 110 of the National Historic Preservation Act:

“(A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;

(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 of this Act and gives special consideration to the preservation of such values in the case of properties designated as having National significance.”

Likewise, the federal government directs the Department of the Interior (in Section 112) to do the following:

- (1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;
- (2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance.

Relevant National Historic Preservation Act definitions: “**Preservation**” or “**historic preservation**” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.”

The National Register of Historic Places website

(www.nationalregisterofhistoricalplaces.com)

lists the “**Shaver-Bilyeu House**” as follows:

Shaver-Bilyeu House (added 1993 - Building - #93000014)

Also known as Shaver, William E. and Lizzie, House

16445 SW. 92nd Ave., Tigard

Historic Significance: Architecture/Engineering, Event

Architect, builder, or engineer: Unknown

Architectural Style: Other, Queen Anne

Area of Significance: Architecture, Exploration/Settlement

Period of Significance: 1900-1924, 1925-1949

Owner: Private

Historic Function: Domestic

Historic Sub-function: Single Dwelling

Current Function: Domestic

Current Sub-function: Single Dwelling

[Please also note the historic function: Domestic. Not any “commercial” uses, not weddings, events, parties, luncheons, meetings, etc.]

Evidence of the Quellos’ continued efforts to obscure the actual documented historic and cultural values of the house and property site, by falsely superimposing their own name Quello as a historical site identity and designation, is most compelling in refuting any

disingenuous claim they might make about historical preservation, or in this most recent attempt to exploit the goodwill of the City of Tigard and gain additional personal exclusive benefits/privileges and non-historic prohibited commercial uses and functions in a residential zone. Furthermore, if the National Register of Historic Places was notified about the Quellos' quest to obliterate the historic name and historic and cultural values of the Shaver-Bilyeu House and those families, it is likely the property would be removed from the national registry of historic places.

The City of Tigard's own website lists the property as follows:

Shaver-Bilyeu House, 16445 SW 92nd Avenue

Year Designated: *1993

Constructed in 1906, the Shaver-Bilyeu House is the best surviving vernacular Queen Anne Cottage farm residence in the Durham community of Tigard. It is significant culturally due to its association with the Shaver family, who contributed to the formation of the local school district, and to its later association with J.C. Bilyeu, first postmaster of Tigard. [*note: listed on the national but not the local registry]

The Tigard City Council Minutes of August 15, 2006 state: "Mr. Quello spoke to the City Council. He submitted a written statement outlining how a conditional use approval would benefit his property... His key points were: [1] there is a need in the City of Tigard for this type of facility. [2] The Quellos are willing to share this facility with the community at no cost to the taxpayers. [3] Historic property will disappear if a way is not found to make such property viable."

Rebuttal to Mr. Quello's presented key points:

[1] Mr. Quello's statement outlines only how a conditional use approval will benefit him and his property. This is not necessarily a benefit to the community or to the city. The city (and outlying metropolitan area) has plenty of rental facilities for events, public meeting halls and schools, churches and facilities for weddings, public and commercial event facilities, and public parks for any and all of these commercial uses. These are all "appropriate venues." His residentially-zoned "domestic" house and property and location is "NOT appropriate" for a commercial public event facility.

[2] Are the Quellos willing to share this facility absolutely free of charge to any and all of the taxpayers of Tigard who want to reserve and use it – e.g. for a wedding, a party, a meeting, an event? Mr. Quello's statement here is also misleading; he wants to obtain commercial uses, for which he will receive monetary remuneration. He wants to run his residential property as a commercial business, with exclusive rights and broad uses currently prohibited in residential zones, commercial uses which would be denied to his neighbors - and 45,000 other Tigard residents in residential zones.

[3] Quello's implied 'threat' of historic property disappearing unless the city allows him to make it commercially "viable" reveals his motive, which is mercenary. His property's zoning and historical designation was never intended to make it commercially "viable." Moreover, the house has always had a "domestic" function – for 100 years. Historically, it was never intended for commerce, let alone large rental events, weddings, meetings, parties. If Quello can't afford to maintain his own property (which has a high market real estate value), then he should sell it – to someone who will maintain the property, and who

will not demand inequitable government handouts and commercial use monopolies “in restraint of trade” and free enterprise, and in an inappropriate residential zone. And if he *truly* cares about preserving history, then Mr. Quello will sell the property to the City of Tigard or to a non-profit historical association.

In the Minutes of August 15, 2006, the City Council mentioned “**neighborhood opposition to the events held at the Quello house in the past.**” Mr. Quello was conducting weddings, with amplified music and “DJ’s.” He was repeatedly blatantly and willfully violating city noise nuisance ordinances, parking ordinances, and engaging in illegal commercial uses in a residential zone (including [hired] entertainment for commercial uses). He was also profiting from the use of his property for weddings, officiating at the weddings, etc. (Incidentally, how many of these weddings conducted were not of his own religion? Was he discriminating against other faiths and against agnostics and atheists, diverse groups r.e. the events scheduling?) In light of past problems, he should not be trusted to voluntarily comply with any new conditions the city might impose, since he knowingly violated existing conditions, codes, and ordinances.

In fact, Mr. Quello historically has inflicted public nuisances upon his neighbors, and he has violated the noble principle of “love thy neighbor as thyself.” He has not treated his neighbors as he himself would like to be treated. In the course of holding events for his own gain and violating multiple city ordinances and codes, he has callously invaded the privacy and committed transgressions against his law-abiding neighbors – in the process demonstrating selfishness.

Conclusion: Instead of being thankful for what he has received in the matter of a bargain lovely home and historical designation (among other things), eligibility for federal grants, generous property tax reductions, and possible tax write-offs (all of which were not due to his own merit, or historically based upon a house with his surname), Mr. Quello further covets and seeks special legal property and broad monopolistic commercial use rights status above all his neighbors and 45,000 other citizens of Tigard, as a newly city-minted landed lord of a privately owned historic estate (which he has historically misrepresented) with attendant special self-serving commercial entitlements denied his own neighbors’ properties and their businesses in the same residential zone. This is unconscionable.

Note: in 2005, the Quellos paid only \$2,714 in property taxes for 2.05 acres and a 3648 sq ft house worth \$790,970 (WA county)-980,000 (market). Their adjacent neighbor north at 16425 SW 93rd Ave paid \$2,828 - for a 1,712 sq ft house on 0.23 acre. The adjacent neighbor south at 16585 SW 92nd Ave paid \$4,438 - for a 3,004 sq ft house on 1.31 acre.

For any public officials to knowingly subvert public policy (appropriate land-use regulations) in order to reward such corroborated improprieties and ingratitude with inequitable exclusive commercial privileges – and then apply that sham citywide to

facilitate it - would be patently wrong, and against the public interest.

Procedural Disqualifications – Vague and Insufficient ‘Public Hearing Notice’

The City of Tigard did not provide adequate or specific enough notice to its citizens of the public hearings, especially to each of the handful of residentially-zoned neighborhoods directly affected. **The “Public Hearing Notice” [which we request the city planning staff submit to include as part of the record]** was received during the last few days of October. However, the Public Hearing Notice does not specify any of the locations of so-called “historic” overlays in residential zones. Most Tigard property owners are not familiar with generic “historic overlays,” nor with unmarked alleged “historical sites” in their neighborhoods, nor with misleading and confusing, incorrect markings of historical sites, nor even regarding the existence of a historic site on private property in their neighborhood.

The Public Hearing Notice does not properly inform the recipients that one of these sites is in their neighborhood and that they may be directly impacted by the land-use decision. Specifically, the Public Hearing Notice does not disclose the street address of any property affected by the zoning. The Public Hearing Notice does not even disclose where one can find this information posted. The Public Hearing Notice does not reveal major details of the proposal which any reasonable person would want to know. All of these facts are contrary to prevailing Oregon statutes. [Reference to: ORS 197.763(3)(a), 197.763(3)(c), and ONRC v. City of Oregon City, 29 OR LUBA 90,97 (1995).]

The Notice Request states: “The applicant is requesting to amend various chapters of the City of Tigard Community Development Code to allow meetings and events as a conditional use on properties with Historic Overlays and /or on the National Register of Historic Places in residential zones.”

The Notice does not mention that the “conditional use” is in fact “commercial,” that there are broad “commercial uses” involved for “direct or indirect compensation,” that these code changes would allow currently prohibited “commercial uses” in residential zones and on private properties, that such commercial uses could include up to 200 people and their automobile traffic/parking at events and might be totally unrelated to any bona fide historical purposes, that this new category of proprietary exclusive uses would be inequitable vis a vis other residentially-zoned property owners (even adjacent neighbors), and that these inequitable, granted uses could be perpetual - and might proliferate in the future.

Mr. Brewin alerted the Tigard planning staff (Mr. Sean Farrelly) of these Notice deficiencies in a legally recorded phone conversation that took place 2:20-3:00 pm on Monday, October 30th. Mr. Farrelly admitted that he did not list any information about how the Public Hearing Notice recipients could access this vital land-use information, including the proposed code text changes. Mr. Brewin found some of this information eventually on the internet, after a time-consuming search. **Most Tigard citizens would**

not know where or how to access this information, and about 40% of Tigard's citizens do not have internet access at home. At the very least, the City of Tigard should have mailed: 1) a two-sided sheet with the Proposed Development Code Text Changes to all the Public Hearing Notice recipients, along with 2) the specific addresses of the private properties affected by this rezoning and creation of an entirely new broad commercial use category to be applied in their residential neighborhoods. The city should also have provided 3) a list of related documents and background material which citizens could access on the city's own website (including the proposed code text changes, the web page with the list of historical sites, the Agenda and Minutes of August 15, etc.).

When none of this information was again forthcoming via USPS, let the record show that Mr. Brewin again contacted Mr. Farrelly (who was unavailable), this time leaving a phone message later on Wednesday, November 1, informing Mr. Farrelly that the planning staff should have notified affected neighboring property owners regarding the address of the affected historical site[s], the actual code amendment text changes, and links to the germane factual and specific documents. Mr. Brewin also referred to past City of Tigard planning staff Public Hearing Notices sent in the past (e.g. Steve Turner, SW 113th Place), which customarily and clearly specified the property address location and the detailed, requested commercial uses, or development, code changes, etc..

Ex parte contacts: The City of Tigard planning staff needs to publicly divulge all ex parte contacts with Mr. Quello (and the nature thereof). In the course of conversations with a neighbor (the owner of the Charles F. Tigard house), Mr. Brewin learned that Mr. Quello had obtained the name and contact information of this property owner (and possibly others) regarding her historic house, and had indeed phoned her about the matter, soliciting support. Mr. Quello probably could not have found this information, unless he had been aided by the city staff in networking with other historic property owners. (Who? And How?) To date (11/8/6), concerned affected neighboring property owners of this code amendment proposal have not been likewise assisted in networking with similarly concerned property owners in other affected residential zones.

Timing of the Public Hearing Notice: the generic, single sheet Public Hearing Notice arrived via USPS along with dozens of election and campaign-related bulk materials. City of Tigard officials and staff should NOT have scheduled the notice at the peak of election mailings (when it would be overlooked and not readily understood by most recipients), and should not have scheduled hearings in such a hasty, flawed, improperly conducted process.

Similarly, the associate planner handling this matter, Mr. Farrelly, is on vacation until November 15 and is unavailable to answer questions, provide information, or process testimonial letters pertaining to the code amendment proposal, etc.

Official Admission of Omission: **Mr. Farrelly also acknowledged to Mr. Brewin on October 30th, that neither he nor anyone else on the city planning staff had visited and inspected all the "historic sites" involved. Since there are only five historic sites**

on private properties in residential zones, this should have been an easy feat, given that the city planners have had almost three months' preparation for the staff report. (Note: The John Tigard House is administered by a non-profit public entity, the Tigard Historical Association, c/o the Tigard Public Library, and Windmill Park is public property, too. The Grange Hall and Joy Theater are in commercial zones, and the Durham school is a Tigard-Tualatin public school.) **Mr. Brewin himself drove to all the historic sites in a single afternoon, November 7, taking photos and noting factors at the locations. How could the city planners even prepare a staff report and recommendations, without first carefully inspecting these properties and locations?**

A reminder: The Oregon and United States Constitutions govern all actions of government. The constitutional principles of fairness and "due process" in particular are applicable to all land use decisions. **The City of Tigard has neither practiced fairness nor "due process" in irresponsibly failing to disclose the most critically relevant and necessary vital information to recipients that should have been contained in the Public Hearing Notice, or contained in a supplemental explanatory sheet that was never prepared, expedited, or included with the Notice.** [Again, refer to: ORS 197.763(3)(a), 197.763(3)(c), and ONRC v. City of Oregon City, 29 OR LUBA 90,97 (1995).] A corresponding city planning staff report and its assertions are likewise faulty.

Furthermore, state land-use planning Goal 1 also requires citizen involvement in all phases of the planning process. To date (11/8), official City of Tigard communications have systematically worked to misinform and confuse citizens, and to effectively limit and hinder wider citizen involvement in this legal land-use process, as a direct consequence.

Conclusions: This land-use process has already not fulfilled important legal and ethical criteria, and this rushed process (rife with misrepresentations) has evidently failed the citizens of Tigard in a number of areas where the citizens are depending solely upon the City of Tigard's officials and staff to act responsibly, fairly, and competently. Thus, the proposal should be rejected and shelved – or begun all over again, with any proposal very limited and more appropriate in scope, and the process handled more satisfactorily.

Argument II: Substantive facts and substantial issues raised which are directly germane to the proposal and conditional uses do NOT support changing the current developmental code, on this subject, as proposed.

The Proposed Amendments to the Community Development Code are unnecessary, unreasonable, insupportable, and drastic word changes (and not electorate-based, not popularly based) to the Community Development Code, which would not only create a specifically NEW "commercial use" category, but force prohibited, excessive, and totally inappropriate and invasive "commercial uses" into and upon established 100% residentially zoned neighborhoods, including arbitrary and draconian inequitable policies which would grant unwarranted unfair exclusive commercial privileges to certain

property owners, while denying their adjacent neighbors (and their businesses) these same special "conditional use" perpetual privileges, and furthermore not providing for guaranteed monitoring and protections, and further offering these city-selected private property owners special "incentives for maintenance."

It is inappropriate to grant perpetual exclusive commercial use privileges to a handful of private property owners in residential zones, and not also to their neighbors (or to these neighbors' competing registered businesses). **The development code change would only be fair and appropriate if these "historical sites" were owned by secular non-profit historical associations, or publicly owned, operated, and maintained, and in more appropriate zone locations, and used for strictly bona fide historical purposes.**

It is contrary to established American notions of free commerce for any local government to institute and grant new commercial monopolies and inequitable land-use policies which favor a small group of individual private property owners -- in place of already pre-existing, sound, equitable local land use policies -- thereby unfairly harming other preexisting property owners and their rights, and in the same residential zones.

It is discriminatory to give permanent exclusive commercial use privileges to a handful of private property owners in residential zones, and not to their neighbors (or their businesses), too. That is akin to recreating a feudal system of privileged lords and landed gentry. It is plainly un-American and runs contrary to every notion of fairness.

This peculiar "ex post facto" superimposition of a new category of commercial uses and new code amendments upon established neighborhoods and residential zones is ill-advised, uninformed, and would be reckless public policy.

The proposed "commercial use types" are too broad and do not even necessarily or appropriately pertain to bona fide "historical" purposes or uses. "Parties," "weddings," "luncheons," etc. do not typically serve historical purposes. There is therefore no reasonable basis to justify (or even consider) any types of meetings/events which do NOT directly pertain to the cultural history, archival history, or verifiable authentic preservation of alleged "historical sites."

The origin of this proposal by the City of Tigard lies in the attempt by two city councilors to assist a single property owner, Mr. Quello, in his self-serving bid to commercially profit from prohibited commercial activities at his residentially-zoned address, where he has already held legally-questionable events that constituted prohibited public nuisances. Moreover, Mr. Quello is already deriving the generous benefit of very low assessed property taxes on his valuable estate, especially in comparison with other private residential properties [tax lots] and unique houses of similar size and condition. He certainly does not need public assistance -- or government-sanctioned welfare, let alone special monopolistic commercial entitlements. He can always sell the property -- for a huge profit. Further, any maintenance of and improvements to the Quellos' private property inure directly to their own financial benefit, and not to the public's benefit. The proposal is nothing more than a selective and improper government handout.

The number of events [18] is excessive, and the number of permitted attendees even more excessive – to the extreme [up to 200]. These arbitrary numbers conjured up by city staff do not even take into consideration the widely varying suitability of locations, the building sizes, the available parking (or lack thereof), the amenities/lack thereof, public and non-discriminatory ADA (Americans with Disabilities Act) accessibility. If the weddings/parties were all held during the summer months, there would likely be an event every single weekend and holiday from Memorial Day through Labor Day. This would ruin the peaceful living environment for neighbors in every residential zone where such commercial uses transpired. The city planner has also stated that, were this proposal approved, the number of events allowed could also possibly be increased in the future, changing these residential historical sites into permanent year-round commercial event facilities in the middle of residentially-zoned neighborhoods.

There is also no mention anywhere in the proposal of responsible necessary on-site monitoring of these properties by the City of Tigard during the proposed weddings, parties, events, etc., r.e. the number of events, number of attendees per event, noise compliance and measuring decibel levels, etc. (and particularly on weekends, holidays, and evenings – when City of Tigard offices are closed and the regular city staff and code enforcement officer are NOT even available – and when such events would be most likely to occur!). The city planners do NOT have extensive or in-depth professional events experience or knowledge, they are not audio experts, they are not crowd control experts, and they are uninformed and unqualified to offer any reliable opinion in the matter of events planning/monitoring +and event site use (especially regarding private properties in residential neighborhoods).

The City of Tigard does NOT properly enforce noise nuisances already (e.g. the unauthorized Gianola property party on SW Fonner of July 29, which blatantly violated numerous city ordinances/codes – including blasting neighbors at 85-100 decibels at a radius of more than ¼ mile from his property and creating a road hazard on SW Fonner and SW 115th, for five hours; city officials coddled it and even made false statements about it to inquiring citizens, both during the illegal party and then for more than a week afterwards). Is the city prepared to monitor and measure the decibel noise level (not to exceed 50 db) of every single event held at these arbitrary historical locations, and respond immediately to every noise complaint — which would inevitably arise from such uses (and most likely on weekends, holidays, and evenings)? And how many police officers routinely carry decibel meters, calibrated weekly, and are trained in their use? Is the city prepared to have a staff person on-site to monitor the number of events, and monitor with absolute confirmable verification (for all public inquiries) the number of persons attending each and every event? Also, routinely coordinate and monitor for non-discrimination in event, meeting, wedding scheduling, hiring and pricing, accessibility, etc.?

Actual, on-site monitoring and enforcement of the “conditional use” on a regular basis, and on a moment’s notice, is NOT mentioned anywhere in the proposal. What city staff persons will be assigned to monitor each and every event, party,

wedding, fund-raiser for absolute compliance (and 7am-9pm)? There is no provision for this clear necessity – involving projected weddings, parties, fund-raisers, after all. The monitoring and compliance can not simply be left up to the property owners or managers of such proposed/designated sites in residential neighborhoods. This is untenable and insupportable; it is unverifiable and problematic. It is similarly untenable and totally unreasonable to place the further burden of monitoring these sites upon the affected surrounding neighbors. That would be a case of the city shirking its public duty – and passing it onto the victims of officials' own irresponsible actions. There is no way these old houses can safely accommodate more than a few dozen people for an event. There is no way the properties can accommodate 40-200 of people at any event (especially a wedding or party) without there being a public noise nuisance which exceeds the legal noise decibel levels (50 db, or anything which disturbs the peace and repose in a "noise-sensitive" unit [a residence]), and especially as this pertains to any events (or portions thereof) held outdoors on the residentially-zoned properties.

The proposed code amendments do not contain any requirement for visual "screening," i.e. solid hedge, wall, or fence 6-8 feet in height, to prevent flagrantly violating the privacy of affected adjacent properties in these residential zones.

While several sites on the city's list of so-called "historical sites" are already suitable and used for regular and large events and/or meetings (the Grange Hall, Durham School and Joy Theater), the houses and private properties listed in residential districts are clearly not suitable nor appropriate. The aforementioned hall, school, and theater and properties were all designed for meetings and/or events or public use. However, the private houses in residentially-zoned neighborhoods were clearly and historically NEVER designed nor intended for such commercial and broad uses as proposed by the city planning staff. These houses were not built to standards required by commercial codes, nor for meetings/events, nor according to any federal and state guidelines/specifications for disabled access. Furthermore, there is already a more than plentiful enough supply of existing rental facilities of all types, halls, banquet rooms, etc. available for events and meetings all over Tigard and nearby in the area — in appropriately constructed public and commercial buildings and churches in appropriately zoned areas, in addition to outdoor public parks.

The five "historical" private properties in residential zones are each adjacent to a number of other residential properties with houses. Any meeting and event use would inevitably regularly violate some surrounding neighbors' privacy, and certainly constitute a regular **prohibited noise nuisance** (weddings, parties, receptions, fund-raisers). It would be virtually impossible to have a wedding or party etc. for 40-200 people at any of these locations inside these older frame houses -- let alone outdoors -- that will NOT violate the noise nuisance ordinances, including penetrating the interiors of the surrounding "noise-sensitive" units/residences. Some people and children need sleep sometimes 7am-9pm.

PHOTOS: The attached photos will provide some insightful information about these alleged “historical sites.”

Shaver-Bilyeu House: 16445 SW 92nd. Shaver-Bilyeu_1.jpg demonstrates that Mr. Quello is not preserving the historical and cultural identity as guardian of a historical house. The Quellos are pretending that a place called “Quello House” was established in 1892. Likewise, the Quellos are falsely representing that The Flower Farm was established in 1892 (Shaver-Bilyeu_2.jpg) and not in the 21st century. The SW 92nd street parking (east side) is reserved for the high school uses, and parking on nearby streets is restricted. A state-of-the-art public event facility and meeting rooms are nearby at the high school, and Cook Park is down the street, with city-administered outdoor free and rental facilities.

Gaarde house: The Gaarde house at 11333 SW Gaarde is located on a busy street with no parking. The photos (Gaarde_1.jpg and Gaarde_2.jpg) show the close proximity of the next-door neighbor’s house.

Seven Gables Upshaw House: 9890 Peppertree Lane. This house is located on a quiet cul-de-sac. The photo, PeppertreeLane_1.jpg, shows the close proximity to the next-door neighbor. The photo also shows that the house has been seriously altered. There is a modern garage and roof, and other alterations and additions. This greatly diminishes any historical significance, especially architectural. PeppertreeLane_2.jpg also shows the proximity to the neighbor’s house.

Charles F. Tigard house: The house at 11180 SW Fonner is set back about 200 yards from the street and is accessible only by a narrow gravel/dirt right-of-way. The street photo (CharlesFTigard_1.jpg) shows the street has no parking, no shoulders, and that cars routinely swerve across people’s front yards. CharlesFTigard_2.jpg shows the narrow right-of-way access to the property. This right-of-way is also not suitable for parking; both sides of the path belong to the adjacent neighboring properties. The photo, CharlesFTigard_3.jpg, was shot from the house at 11205 SW Morgen Ct, and shows the close proximity of the Tigard house. The photo, CharlesFTigard_4.jpg, was shot inside the property of 11225 SW Morgen Ct. and shows the very close proximity of the Tigard house to this neighbor. The photo, CharlesFTigard_5.jpg was shot from the house at 11225 SW Morgen Ct. and shows the close proximity of the Tigard house. This house is situated in a fragile eco-system and natural wildlife habitat, with one of Tigard’s remaining intact small forests of old-growth firs, and thousands of nesting and migratory birds, some of which are endangered protected species. (see: Oregon Goal Five) A newer subdivision (SW 113th Pl.) is adjacent to the trees and growth. The owners (C. Schultheis) have stated they do not wish to hold commercial events etc. here, and that it would not be appropriate in this location. Note: The Charles F. Tigard house is not at its original site. This is not the “historical site” of the house. It was moved in 1980. Its original location was by Highway 99 (near Elmer’s Restaurant and the discount furniture outlet store). The roof has been changed to composition, the basement and foundation are also not original, and it has been remodeled inside. A house that has been moved loses intrinsic significance as a historic place. The more important historical site and building relating

to Charles F. Tigard was his general store. Ripley's Furniture/Gardener's Choice is a more historic building, and was the store moved from across the street (99W).

Tigard Farm and Windmill: This house at 10525 SW Tigard St. is located on a block with posted "No Parking" signs. It is surrounded by apartment complexes. The two photos, Tigard_Windmill_1.jpg and Tigard_Windmill_2.jpg clearly show the very close proximity of a large apartment building to the windmill and property.

The other "historical sites" in residential zones are not private properties.

The John Tigard House is located at 10310 SW Canterbury Lane. The photo, JohnTigard_1.jpg, shows the location of the tiny house at the intersection of two streets. **The photo, JohnTigard_2.jpg shows that the house is a museum used for legitimate non-profit historical purposes.** This house has also been moved from its original site (near Highway 99W). This is not the "historical site." **Windmill Park** is a city park located on SW 121st. Nevertheless, it is located close to neighboring houses, as shown in the photo (WindmillPk_1.jpg).

Historical observations: In the larger context of history, none of these houses is important or significant nationally. Only in a small-town like Tigard would some of these houses be deemed worthy of any historical designation. For instance, on the east side of Portland, there are hundreds of houses that are as old (or older) which probably have more historical and architectural importance. Yet, hardly any of those houses is officially designated as "historical." On the East Coast, there are thousands of houses that are hundreds of years old. What will happen in the future, if the City of Tigard simply designates every older house, farm, or business as "historical?" (And which panel of professional historians has the city authorized for such purposes?) Moreover, if the city approves the code amendment proposal and designates more and more houses as "historical" in the future, then there will be more nuisance properties with exclusive monopolistic "commercial uses" in residential neighborhoods all over the town.

The only house in Tigard that should be officially recognized and accorded any special uses is the John Tigard House, because it is the oldest and has the most historic importance, it is owned and administered as a public non-profit historical site by the Tigard Historical Association, and it serves the public for strictly historical purposes.

By comparison, the **City of Beaverton** has two historic house sites, **the Jenkins Estate and the Fanno Farmhouse. Both sites are publicly owned** (the Tualatin Hills Park and Recreation District). The Jenkins Estate is situated on 68 acres, away from all neighbors, has seven buildings and three support structures. Anyone may rent the Jenkins Estate, through the public park district. No amplified music or sound systems are permitted, indoors or outdoors, not even a microphone. (Mr. and Mrs. Brewin were married there.)

Similarly, the publicly owned and administered Fanno Farmhouse is situated on 14 acres next to a main arterial street. Both the Fanno Farmhouse and the Jenkins Estate are suitable venues and properties for events, meetings, weddings, parties, etc. They are

publicly administered and they are not the source of any public nuisances. That's a major difference between the way the City of Beaverton operates and what the City of Tigard is proposing, r.e. historical houses and conditional uses.

While some counties allow conditional uses in rural unincorporated areas, most reputable cities do not permit such inappropriate commercial uses in residential zones.

Furthermore, truly historical houses and sites are not used for non-historical purposes (e.g. Hoover-Minthorn House [Newberg], John McLoughlin House [Oregon City] www.mcloughlinhouse.org/, Fort Clatsop <http://www.nps.gov/lewi/planyourvisit/fortclatsop.htm>).

Conclusion: There is therefore NO justifiable need or rationale for any further amendments to the community developmental code, on this subject, and especially pertaining to speedily and deliberately revoking zoning protections which currently protect the public and prohibit invasive broad commercial uses or public nuisances encroaching into residentially-zoned neighborhoods.

The persons who purchased these five historical homes (or who sought "historical" status) knew they would have to maintain their own homes; and it inures solely to their own benefit, too. In one case, newer private property owners (i.e. the Quellos) themselves sought the historical designations, and have already been reaping the rewards – in the form of low property taxes.

In 2000, a previous Zoning Ordinance Amendment (ZOA2000-0001) sought to conditionally allow bed and breakfast establishments and weddings in Historic Overlay zones. The City Council voted to deny the amendment.

It should be reminded that tens of thousands of residential property owners, families, bought their properties – their homes - with the existing zoning, and code prohibitions and protections, and the reasonable expectation that these sensible prohibitions and protections for residential zoning would be lasting and enforced.

The City of Tigard's elected and appointed officials should wisely protect carefully crafted existing residential zoning protections and not confer inequitable monopolistic commercial uses and rights upon a small group of private property owners (nor specifically on behalf of any person[s]), nor thereby or otherwise irresponsibly create unmonitored public nuisances, harming numerous other citizens, their properties and property values in the process – but rather exercise prudence and uphold the public trust.

Sincerely,

1) Michael Brewin,
2) Sharon Brewin,
property owners, 11225 SW Morgen Ct., Tigard, Oregon, USA

and 3) Michael Brewin,
SOULJAZZ LLC,
a Tigard, Oregon, United States business

~~Revised August 11, 2006. Added a short business meeting, see Page 3.
August 22 Council Meeting is canceled.~~

**TIGARD CITY COUNCIL
WORKSHOP AND BUSINESS MEETING
August 15, 2006 - 6:30 p.m.
TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223**



PUBLIC NOTICE:

Upon request, the City will endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL WORKSHOP MEETING
AUGUST 15, 2006

6:30PM

1. WORKSHOP MEETING
 - 1.1 Call to Order – Tigard City Council
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items

2. RECEIVE SITE COMMITTEE UPDATE - SENIOR CENTER REMODEL
 - Staff Report: Administration Department

3. DISCUSS ROLES AND RESPONSIBILITIES OF THE CITY CENTER ADVISORY COMMISSION (CCAC)
 - Staff Report: Community Development Department

4. DISCUSS TOWN HALL AUDIO-VISUAL UPGRADE
 - Staff Report: Financial and Information Services Department

5. DISCUSS WHETHER TO INITIATE A DEVELOPMENT CODE AMENDMENT TO ALLOW NON-RESIDENTIAL USES IN A RESIDENTIAL ZONING DISTRICT AT THE QUELLO HOUSE AND SIMILAR PROPERTIES
 - Staff Report: Community Development Department

6. DISCUSS CITY COUNCIL REPORT CARD
 - Staff Report: Administration Department
7. UPDATE ON THE STATUS OF THE 2006 CITY COUNCIL GOALS
 - Staff Report: Administration Department

TIGARD CITY COUNCIL BUSINESS MEETING
AUGUST 15, 2006

8. CONSIDER AN AMENDMENT TO THE CITY COUNCIL GROUNDRULES
 - a. Staff Report: Administration Department
 - b. City Council Discussion
 - c. City Council Consideration: Resolution No. 06-_____
9. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
 - 9.1 Approve Council Minutes for July 18, 2006
 - 9.2 Appoint Building Appeals Board Member - Resolution No. 06 - _____
 - 9.3 Approve Budget Amendment #4 to the FY 2006-07 Budget to Increase Appropriations in the Gas Tax Capital Projects Budget within the Community Investment Program for Additional Funding for the Hall Boulevard Sidewalk Project – Resolution No. 06-_____
 - 9.4 Approve Budget Amendment #5 to the FY 2006-07 Budget to Increase Appropriations in the Parks Capital Project budget within the Community Investment Program for Additional Funding for the Tualatin River/Cook Park Trail from Garden to Bridge Project – Resolution No. 06-_____
 - 9.5 Local Contract Review Board:
 - a. Award Contract for the Construction of the FY 2006-07 Pavement Major Maintenance Program (PMMP) – Phase 1
 - b. Award Contract for Grounds Maintenance at the City's Water Reservoir Sites and Storm Water Quality Facilities
 - *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*
10. COUNCIL LIAISON REPORTS
11. NON AGENDA ITEMS

12. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

13. ADJOURNMENT

\\admca\hyc\ca\2006\060815\agenda.doc

Agenda Item No. 6.1
For Agenda of 9.12.06



Tigard City Council Workshop and Business Meeting Minutes

Date: August 15, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Sydney Sherwood
Councilor Nick Wilson
Councilor Tom Woodruff

Agenda Item	Discussion & Comments	Action Items (follow up)
Workshop Meeting	Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 6:30 p.m.	
2. Receive Site Committee Update – Senior Center Remodel	<p>Risk Manager Mills summarized the Staff Report.</p> <p>Below is a summary of the discussion:</p> <ul style="list-style-type: none"> ➤ Risk Manager Mills introduced Senior Center Executive Director Joan Smith and a representative of the Loaves and Fishes and City of Tigard Site Committees Bill Gerkin. ➤ Councilor Sherwood advised she needed clarification on the remodel. She said that since more than \$1 million will be spent on the project, she wanted to make sure a full commercial kitchen is planned. She noted the need for a facility available for groups to access a commercial kitchen for community events, fundraisers, etc. ➤ Mr. Gerkin reviewed activity experienced with other senior centers in the region and the populations served. ➤ The Tigard Senior Center needs to be updated, which would benefit Meals on Wheels and provide opportunities for more activities and to expand activities already taking place. ➤ Councilor Woodruff advised that the City Council is supportive of the remodel, but wants to provide for growth in the Center's use. ➤ Ms. Smith said some scratch cooking is now 	<p>Council consensus was to proceed with the Senior Center Remodel process. City Manager Prosser advised that with Council direction to proceed, funds have already been appropriated for this project. Staff will proceed to spend up to \$100,000 of this year's Community Investment Program funds for architectural work to get a conditional use application started for the remodel.</p> <p>Risk Manager Mills advised that before proceeding with architectural and engineering design bids to be funded with the second half of the funds allocated for this fiscal year (an additional \$100,000), staff will return to the City Council.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>done at the Senior Center.</p> <ul style="list-style-type: none"> ➤ Loaves and Fishes will pay for part of the remodel. ➤ Ms. Smith said, depending on the amount that might be awarded by the CDBG, the Tigard Senior Center remodel plans might need to be pared down or they will need to do additional fund raising. ➤ Ms. Smith said they have worked with a kitchen architect to design a kitchen that meets commercial standards. ➤ Risk Manager Mills noted that the remodel could occur in phases as funding is identified. ➤ Risk Manager Mills advised the goal is to have this project finished by June 2008. 	
<p>2. Discuss Roles and Responsibilities of the City Center Advisory Commission</p>	<p>City Center Advisory Commission members present: Chair Carl Switzer; Commissioners Carolyn Barkley, Gretchen Buehner, and Alice Ellis Gaut</p> <p>Community Development Director Coffee introduced this agenda item.</p> <p>Senior Planner Nachbar distributed a marked-up draft of the Bylaws noting this document reflected changes suggested by the CCAC.</p> <p>Key points of the discussion follow:</p> <ul style="list-style-type: none"> ➤ Section 1 outlines "charge and duties": <ul style="list-style-type: none"> ○ Bylaws should be reviewed to assure compatibility with the Urban Renewal Plan. ○ Discussed the situation where another urban renewal district might be formed in Tigard. Speculation on whether another CCAC might be needed or adjustments to the existing CCAC. ➤ Chair Switzer advised of the detailed review by CCAC members. The CCAC members wanted to create a document to provide guidance if there should be a leadership change, provide for a minority report, and clarify the purpose and procedures of the CCAC. ➤ Discussed representation of community interests from the membership of the CCAC. ➤ A representative from each interest group is not 	<p>Council members agreed they would like more time to review the draft Bylaws and scheduled another discussion on September 19, 2006.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>necessary; however, interest groups should be invited to the table so the CCAC can receive their input.</p> <ul style="list-style-type: none"> ➤ If care is taken to select a broad cross-section of the community, then there will likely be a good representation of interests. ➤ Chair Switzer said CCAC members felt they should have input on selection of members to the CCAC. Mayor Dirksen commented that this would be unusual as this is not how appointments are made for other boards and committees. Assistant City Manager Newton added that this would require an amendment to the resolution regarding how appointments to boards and committees are done. After brief discussion, Councilor Wilson suggested it was good to have open lines of communication to receive input from the CCAC, but questioned whether it was necessary to codify this as a requirement in the Bylaws. ➤ Community Development Director Coffee advised that if the Bylaws require that the membership reflects representation of certain interest groups within the community, how members are removed should be outlined. Chair Switzer directed attention to Section 4, "Term of Office." ➤ Councilor Harding noted the need for better recruiting efforts for members and supported having Committee members assist with this process. ➤ Councilor Wilson suggested that the representation of a broad spectrum of community members within the membership of the CCAC be a goal and not a "hard and fast rule." ➤ Councilor Woodruff said Section 3(a)(2) regarding the composition of the CCAC is not needed. There was general agreement to delete this wording. ➤ Commissioner Ellis Gaut noted there is a section in the draft Bylaws allowing a vote by proxy. ➤ Section 7 outlines the Commission members' responsibilities, including wording on acting with respect and consideration for the viewpoint 	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>of others.</p> <ul style="list-style-type: none"> ➤ Removal of members is outlined in Section 10. ➤ Mayor Dirksen confirmed, in response to a question from Commissioner Barkley, that the CCAC is a "Commission" not a "Committee." These two terms have been used interchangeably – use "Commission." 	
4. Discuss Town Hall Audio Visual Upgrade	<p>Information Technology Director Ehrenfeld introduced Mr. Lon Cudy of New World Audio Video. Mr. Cudy was awarded the contract to analyze the current condition of the Town Hall audio/visual capabilities.</p> <p>Mr. Cudy reported he has observed several deficiencies with the audio system in Town Hall. The following represents the key points discussed:</p> <ul style="list-style-type: none"> ➤ Town Hall audio/video (a/v) system should accommodate overflow crowds; i.e., lobby enhancements and/or off-site viewing. ➤ Mr. Cudy proposed a large overhead screen on the wall behind the City Council dais for easier audience viewing; people seated at the dais would be able to view presentations on computer screens. ➤ Mayor Dirksen and Councilor Harding noted issues with their laptop computers, including that the batteries no longer hold a charge for very long. ➤ Mr. Cudy noted the multi-purpose uses of the Town Hall. He suggested that one person operate the controls of the a/v system during the meetings; i.e., the recorder or secretary. ➤ Mr. Cudy recommended headset microphones for best results. ➤ Sufficient microphones for everyone seated at the dais and the public testimony desk are needed. ➤ Councilor Sherwood noted a preference for turning on the microphone when an individual wants to speak. ➤ Review of the system will include a testimony timing system and digital recording. Mr. Cudy said he would like to "clean up" the system; do away with the numerous power cords that are visible. Mr. Cudy said he plans to develop a 	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>system that will be good to use ten years from now.</p> <ul style="list-style-type: none"> ➤ City Manager Prosser noted the need to determine what a/v equipment will be made available for public use. 	
<p>5. Discuss Whether to Initiate a Development Code Amendment to Allow Non-Residential Uses in a Residential Zoning District at the Quello House and Similar Properties</p>	<p>Community Development Director Coffee advised that City Council members Harding and Woodruff indicated interest in facilitating the use of the Quello House for limited commercial use.</p> <p>City Manager Prosser explained the process for this matter. If a Code Amendment is considered to set up a procedure for a conditional use permit, the legislative hearing process would be followed. If the Code Amendment is approved, Mr. Quello would need to apply for a Conditional Use Permit by going before the Hearings Officer; this would be a quasi judicial hearing.</p> <p>Mr. Quello spoke to the City Council. He submitted a written statement outlining how a conditional use approval would benefit his property. A copy of this statement is on file in the City Recorder's office.</p> <p>His key points were:</p> <ul style="list-style-type: none"> ➤ There is a need in the City of Tigard for this type of facility. ➤ The Quellos are willing to share this facility with the community at no cost to the taxpayers. ➤ Historic property will disappear if a way is not found to make such property viable. <p>In response to a question from Councilor Sherwood, Mr. Quello advised he and his wife have no plans to use this facility as a Bed and Breakfast Inn.</p> <p>Councilor Woodruff commented that the 100-year old, restored Quello home is an asset for the City of Tigard. He said he would like to figure out a solution so a property such as this does not get sold for development. He said he understands there was neighborhood opposition to the events held at the Quello house in the past. Councilor Woodruff said he supported reviewing this again.</p>	<p>After discussion, consensus of the City Council was to initiate the Community Development Code Amendment process for consideration of establishing an overlay zone or conditional use process.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Councilor Wilson said he was serving on the Planning Commission when this issue came before the City last time regarding the Quello property. While the alternative might be that the property will be sold to a developer, there was a need to balance neighborhood concerns.</p> <p>Mr. Quello acknowledged the issues previously, which he characterized as a learning experience. At that time, weddings were being conducted on the property. If he is allowed to have events on the property, he said he would agree to restrictions, including rules regarding amplified music and the use of "DJ's."</p> <p>Discussion followed regarding parking and concerns that might arise. Community Development Director Coffee suggested that conditional use standards could be developed to address these types of issues.</p> <p>Mr. Quello advised the Quello House was listed on the National Historical Site registry, which must be renewed every 15 years. He will need to reapply next year to retain this designation.</p> <p>Councilor Harding supported another review and coming up with something creative for the Quello House.</p> <p>Councilor Sherwood said she would be happy if a good compromise could be found. She suggested that Mr. Quello talk to his neighbors to build support for his proposal.</p> <p>Community Development Director Coffee referred to the process for a Community Development Code text amendment to allow conditional uses on historical sites. The legislative hearings on a proposed text amendment would take place before the Planning Commission and the City Council. He reiterated that if the text amendment is approved, the conditional use approval for a specific site will be held before the hearings officer. Neighbors would be notified of this conditional use hearing.</p>	

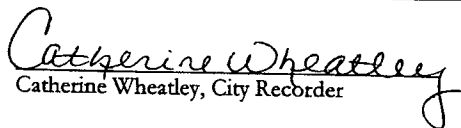
Agenda Item	Discussion & Comments	Action Items (follow up)
6. Discuss City Council Report Card	<p>Assistant City Manager Newton presented the staff report.</p> <p>At the May 16, 2006, City Council meeting, Council members asked that the Committee for Citizen Involvement review and provide comments on the proposed Council report card. Councilor Sherwood noted that she and Councilor Woodruff came across the report card idea and thought this would be a good evaluation tool for Tigard City Council. Councilor Woodruff suggested using the proposed format this year and modify as needed. Report cards could be done every year or two.</p>	<p>After discussion, City Council members agreed that staff should review the report card draft and make appropriate grammatical changes. Room should be left after each question for written comments. The Report Cards will be submitted to Board and Committee Chairs and the Executive Staff. Names of persons filling out the card will not be requested; however, the City Council would like differentiation between the two groups; that is, identify whether the form was completed by a Board/Committee member or an Executive Staff member.</p>
7. Update on the Status of the 2006 City Council Goals	<p>Assistant City Manager Newton presented the staff report. The summary of progress made on the City Council goals for the second quarter of 2006 is on file in the City Recorder's office.</p>	
8. Consider an Amendment to the City Council Groundrules	<p>City Council discussed the Council Groundrules on July 11, 2006. The following wording was proposed for consideration as an addition to the City Council Groundrules: <i>Council members should attempt to give at least 24 hours' notice, by advising the City Manager and the City Recorder of a request to remove a Consent Agenda item for separate discussion.</i></p> <p>RESOLUTION NO. 06-51 – A RESOLUTION AMENDING THE COUNCIL GROUND RULES (EXHIBIT A) AND SUPERSEDING RESOLUTION NO. 04-83</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adopt Resolution No. 06-51.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p>
9. Consent Agenda	<p>Mayor Dirksen reviewed the Consent Agenda before the City Council:</p> <p>9.1 Approve Council Minutes for July 18, 2006</p>	<p>Motion by Councilor Wilson, seconded by Councilor Sherwood, to approve the Consent Agenda.</p>


Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>9.2 Appoint Building Appeals Board Member - Resolution No. 06 -52</p> <p>A RESOLUTION OF THE TIGARD CITY COUNCIL APPOINTING DAN PELISSIER TO THE TIGARD BUILDING APPEALS BOARD</p> <p>9.3 Approve Budget Amendment #4 to the FY 2006-07 Budget to Increase Appropriations in the Gas Tax Capital Projects Budget within the Community Investment Program for Additional Funding for the Hall Boulevard Sidewalk Project -- Resolution No. 06-53</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #4 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE GAS TAX CAPITAL PROJECT BUDGET WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR ADDITIONAL FUNDING FOR THE HALL BOULEVARD SIDEWALK PROJECT</p> <p>9.4 Approve Budget Amendment #5 to the FY 2006-07 Budget to Increase Appropriations in the Parks Capital Project budget within the Community Investment Program for Additional Funding for the Tualatin River/Cook Park Trail from Garden to Bridge Project - Resolution No. 06-54</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #5 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE PARKS CAPITAL PROJECTS BUDGET WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR ADDITIONAL FUNDING FOR THE TUALATIN RIVER/COOK PARK TRAIL FROM GARDEN TO BRIDGE PROJECT</p> <p>9.5 Local Contract Review Board: a. Award Contract for the Construction of the</p>	<p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	FY 2006-07 Pavement Major Maintenance Program (PMMP) – Phase 1 b. Award Contract for Grounds Maintenance at the City's Water Reservoir Sites and Storm Water Quality Facilities	
Administrative Items	City Manager Prosser reviewed the following Administrative Items with the City Council: <ul style="list-style-type: none"> ➤ Mayor Dirksen advised Tri-Met would like to hold its quarterly board meeting (October 25) in the City of Tigard. It is possible there will be a demonstration of the equipment that lays railroad track a quarter mile at a time. ➤ Potential joint meeting with the Intergovernmental Water Board and the City of Lake Oswego City Council on October 24. The consultant will present information so policy discussions can begin. ➤ Fifth Tuesday Council Meeting will be on August 29, 2006, 7-9 p.m. in the Tigard Water Building. ➤ Status of nominations for Mayor and City Council candidates for November 2006 election: Mayor Candidate: Craig Dirksen; Councilor Candidate Gretchen Buehner. Nominations for Mayor are closed; nominations for Council members close August 28, 4 p.m. 	

Adjournment	The meeting adjourned at 8:53 p.m.	<p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p>
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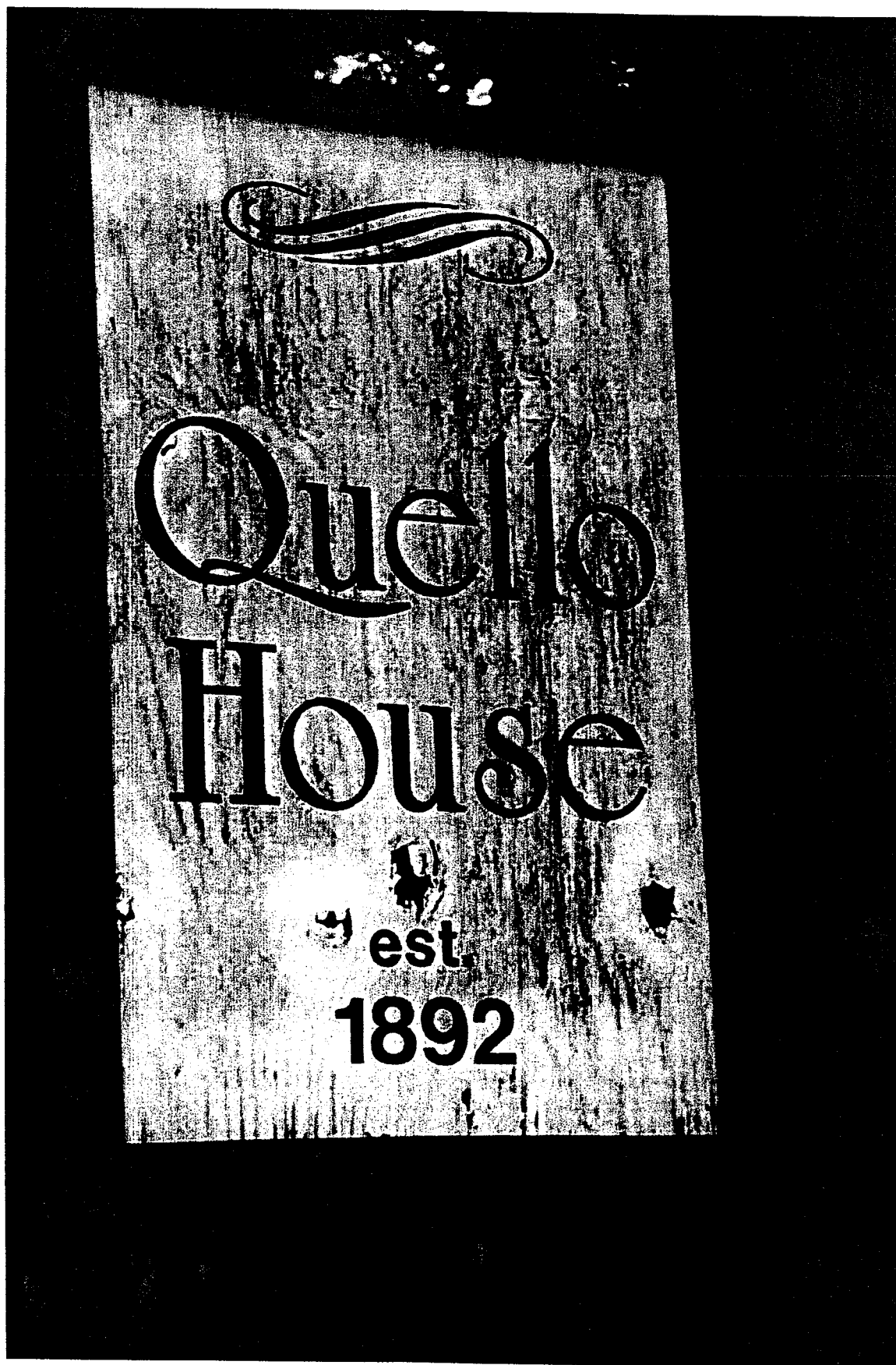
Attest:

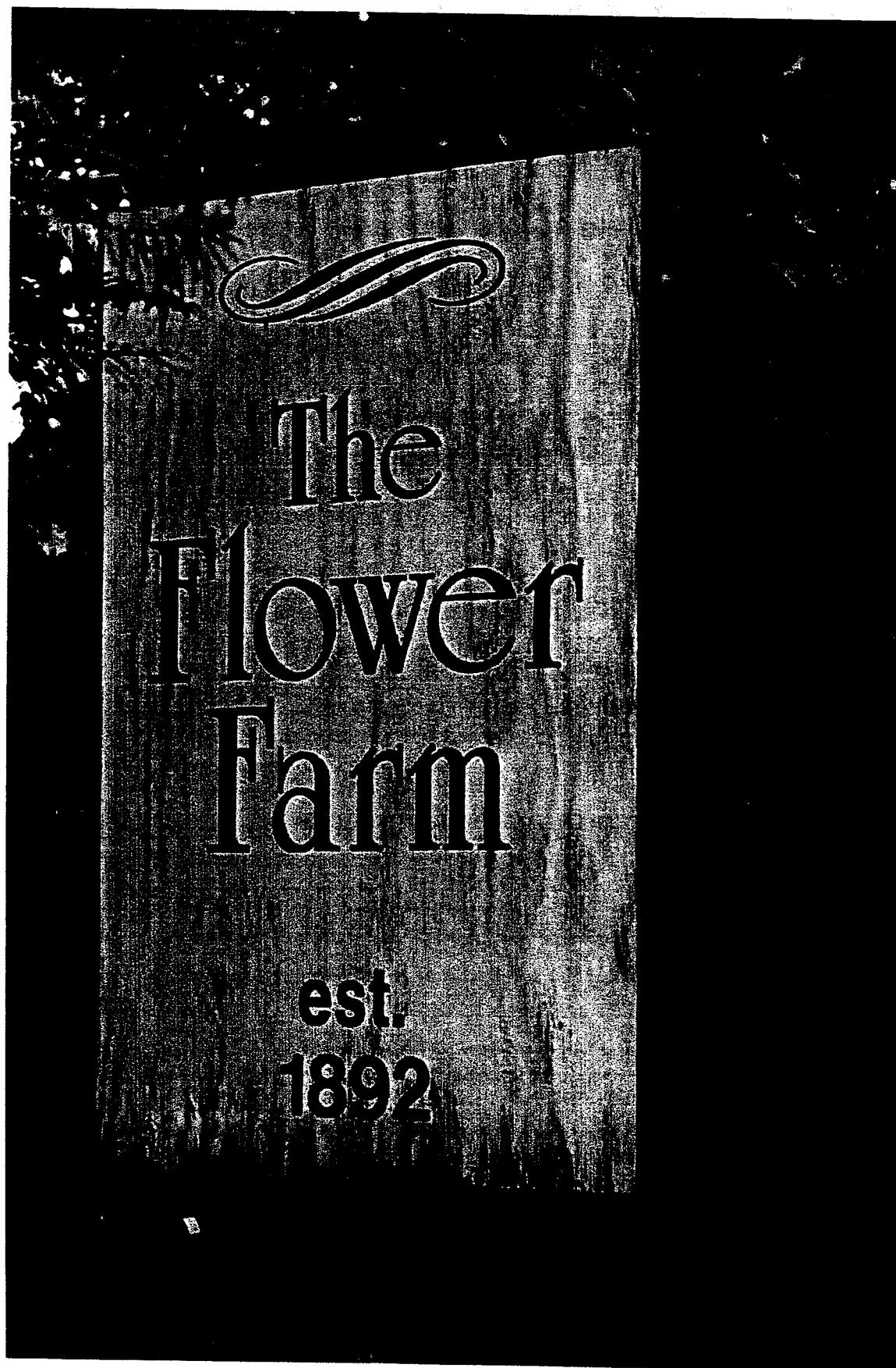

Catherine Wheatley, City Recorder



Mayor, City of Tigard

Date: 9.12.06





National Register of Historical Places - OREGON (OR), Washington County

Architect, builder, or engineer: Unknown
Architectural Style: Other, Bungalow Craftsman
Historic Person: Schulmerich, Edward
Significant Year: 1915
Area of Significance: Economics, Architecture
Period of Significance: 1900-1924, 1925-1949
Owner: **Private**
Historic Function: Domestic
Historic Sub-function: Single Dwelling
Current Function: Domestic
Current Sub-function: Single Dwelling

- 4 | **Shaver--Bilyeu House** (added 1993 - **Building** - #93000014)
Also known as **Shaver, William E. and Lizzie, House**
16445 SW, 92nd Ave., Tigard

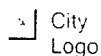
Historic Significance: Architecture Engineering, Event
Architect, builder, or engineer: Unknown
Architectural Style: Other, Queen Anne
Area of Significance: Architecture, Exploration/Settlement
Period of Significance: 1900-1924, 1925-1949
Owner: **Private**
Historic Function: Domestic
Historic Sub-function: Single Dwelling
Current Function: Domestic
Current Sub-function: Single Dwelling

- 4 | **Sholes, Albert S., House** (added 1982 - **Building** - #82003755)
1599 S. Alpine St., Cornelius

Historic Significance: Architecture Engineering, Event
Architect, builder, or engineer: Martin, Richard, Jr.
Architectural Style: Bungalow Craftsman
Area of Significance: Architecture, Commerce
Period of Significance: 1900-1924
Owner: **Private**
Historic Function: Domestic
Historic Sub-function: Single Dwelling
Current Function: Domestic
Current Sub-function: Single Dwelling

- 4 | **Shorey, Charles, House** (added 1989 - **Building** - #890000518)
905 E. Main St., Hillsboro

Historic Significance: Architecture Engineering
Architect, builder, or engineer: Shorey, Charles
Architectural Style: Other, Queen Anne
Area of Significance: Architecture
Period of Significance: 1900-1924
Owner: **Private**
Historic Function: Domestic
Historic Sub-function: Multiple Dwelling, Single Dwelling
Current Function: Domestic



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DESIGNATED HISTORICAL SITES

[Durham Elementary School, 8040 SW](#) [Durham Elementary](#)

<p>Affordable Housing Bid Advertisements City Council Agenda Cityscape Newsletter Construction in Tigard Development Code Emergency Management Events Calendar Forms Job Opportunities New to Tigard? Parks in Tigard Passports Room Reservations Tigard Municipal Code Volunteer Opportunities Water Division</p>	<p>Durham Rd. Year Designated: 1984 Built in 1920, the school is significant in its association with early Oregon pioneer and businessman Albert Durham.</p> <p>Ye-Olde Windmill, 121st St. and Katherine St. Year Designated: 1984 Built in 1909 by Edward Christensen, the water tower stands as a visible testimonial to the surrounding land's original agricultural use and to the Wood-Christensen families who lived and farmed there.</p> <p>Charles F. Tigard House, 11180 SW Fonner St. Year Designated: 1984 Constructed in 1909, this is the second house occupied by Charles F. Tigard, the seventh son of Tigard's namesake. Charles established the area's first general store and was involved in other commercial activities.</p>	<div data-bbox="1023 441 1451 745"> <p>x 121st & Katherine Street</p> </div> <div data-bbox="1023 808 1451 1102"> <p>x Charles F. Tigard House</p> </div>
<p>Online Services</p> <p>GIS Online Maps Library Catalog- WILInet Online Park Reservations Utility Payments Vendor Registration</p>	<p>Tigard Farmhouse and Windmill, 10525 SW Tigard St. Year Designated: 1986 Built in 1900's, the house is significant due to its association with the Cowgill family. Hal Cowgill, who purchased the property in 1936, was a long-time employee of Pacific Power and Light. The residence is one of the few bungalow farmhouses with a water tower still intact.</p> <p>Joy Theater, 11959 SW Pacific Hwy. Year Designated: 1986 Constructed in 1939, the theater building is significant as an example of the Art Deco/Modern Style. Substantial exterior alteration, approved by the City, occurred in 1992. The basic massing and style of the building was preserved and enhanced by the alterations.</p> <p>Tigard Grange #148, 13770 SW Pacific Hwy.</p>	<div data-bbox="1023 1186 1451 1480"> <p>x Tigard Street Farmhouse</p> </div> <div data-bbox="1023 1564 1451 1858"> <p>x Joy Theater</p> </div> <div data-bbox="1023 1900 1451 2001"> <p>x Tigard Grange</p> </div>

Year Designated: 1986

In continuous use since 1925, the building is an important landmark because it is representative of the efforts of early grange members, including Wilson Tigard.

Seven Gables Upshaw House, 9890 SW Peppertree Lane

Year Designated: 1986

The residence is significant in its association with the Upshaw family since 1909, when the Rev. William Loomis Upshaw retired to the house after serving as the minister of a north Portland church and became involved with the production and marketing of apples.

 Seven Gables Upshaw House

John Tigard House, 10310 SW Canterbury Ln.

Year Designated: 1979

Built in 1880, the house is one of two Tigard sites listed on the National Historic Register. John Tigard was the eldest son of Wilson Tigard, the founding father of Tigardville. John operated a coach route from Tigardville to Portland. The house is significant in its association with John and as an example of early frame construction.

 John Tigard House

Gaarde House, 11333 Gaarde St.

Year Designated: 1991

The house was built in 1922 by Hans Gaarde, the son of John Gaarde, who established a blacksmith shop in 1893 across the road from Charles Tigard's store. The house is one of the few remaining examples of the bungalow style with Craftsman detail. Its significance rests primarily on its association as a landmark of the Gaarde family's early presence in Tigard.

 Gaarde House

Shaver-Bilyeu House, 16445 SW 92nd Avenue

Year Designated: *1993

Constructed in 1906, the Shaver-Bilyeu House is the best surviving vernacular Queen Anne Cottage farm residence in the Durham community of Tigard. It is significant culturally due to its association

 Shaver Bilyeu House

with the Shaver family, who contributed to the formation of the local school district, and to its later association with J.C. Bilyeu, first postmaster of Tigard. [*note: listed on the national but not the local registry]

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City of Tigard, 13125 SW Hall Blvd, Tigard, OR 97223, 503-639-4171

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:

THE TIGARD DEVELOPMENT CODE REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT SHALL BE PROMPTLY FORWARDED TO THE PURCHASER.



PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD BEFORE THE **TIGARD PLANNING COMMISSION ON MONDAY, NOVEMBER 20, 2006 AT 7:00 PM, AND BEFORE THE TIGARD CITY COUNCIL ON TUESDAY, DECEMBER 12, 2006 AT 7:30 PM.** THE PUBLIC HEARINGS WILL BE CONDUCTED IN THE TOWN HALL OF THE TIGARD CIVIC CENTER AT 13125 SW HALL BOULEVARD, TIGARD, OREGON 97223. THESE HEARINGS ARE FOR THE PURPOSE OF RECEIVING TESTIMONY FROM THE PUBLIC.

FILE NO.: DEVELOPMENT CODE AMENDMENT (DCA) 2006-00005

FILE TITLE: HISTORIC OVERLAY CONDITIONAL USE CODE AMENDMENT

APPLICANT: City of Tigard
Attn: Sean Farrelly
13125 SW Hall Boulevard
Tigard, OR 97223

REQUEST: The applicant is requesting to amend various chapters of the City of Tigard Community Development Code to allow meetings and events as a conditional use on properties with Historic Overlays and/or on the National Register of Historic Places in residential zones.

The following is a summary of the proposed amendments including the affected code chapters:

1. Chapter 18.130 USE CLASSIFICATIONS: Add a "Meeting and Event Use" category;
2. Chapter 18.330 CONDITIONAL USE: Add additional development standards for conditional use types to allow "Meeting and Event Uses" on properties with a Historic District overlay zone and/or on the National Register of Historic Places in residential zones;
3. Chapter 18.510 RESIDENTIAL ZONING DISTRICTS (Table 18.510.1 - Use Table): Add a use category for "Historic Place Meetings and Events" as a conditional use on properties that have a Historic Overlay and/or are on the National Register of Historic Places in all residential zoning districts; and
4. Chapter 18.740 HISTORIC OVERLAY: Add a General Provision to the Historic Overlay chapter to include "Incentives for maintenance" provision.

LOCATION: All residential zones with Historic Overlays.

ZONE: All residential zones.

**APPLICABLE
REVIEW**

CRITERIA: Community Development Code Chapters 18.120, 18.130, 18.330, 18.390, 18.510 and 18.740; Comprehensive Plan Policies 1 and 2; and Statewide Planning Goal 1.

THE PUBLIC HEARING ON THIS MATTER WILL BE CONDUCTED IN ACCORDANCE WITH THE RULES OF CHAPTER 18.390.060.E OF THE COMMUNITY DEVELOPMENT CODE AND RULES OF PROCEDURE ADOPTED BY THE TIGARD PLANNING COMMISSION AND CITY COUNCIL AND AVAILABLE AT CITY HALL.

ASSISTIVE LISTENING DEVICES ARE AVAILABLE FOR PERSONS WITH IMPAIRED HEARING. THE CITY WILL ALSO ENDEAVOR TO ARRANGE FOR QUALIFIED SIGN LANGUAGE INTERPRETERS AND QUALIFIED BILINGUAL INTERPRETERS UPON REQUEST. PLEASE CALL 503-639-4171, EXT. 2438 (VOICE) OR 503-684-2772 (TDD - TELECOMMUNICATIONS DEVICES FOR THE DEAF) NO LESS THAN ONE WEEK PRIOR TO THE HEARING TO MAKE ARRANGEMENTS.

PUBLIC ORAL OR WRITTEN TESTIMONY IS INVITED. ANYONE WISHING TO PRESENT WRITTEN TESTIMONY ON THIS PROPOSED ACTION MAY DO SO IN WRITING PRIOR TO OR AT THE PUBLIC HEARING. ORAL TESTIMONY MAY BE PRESENTED AT THE PUBLIC HEARING. AT THE PUBLIC HEARING, THE PLANNING COMMISSION WILL RECEIVE A STAFF REPORT PRESENTATION FROM THE CITY PLANNER, OPEN THE PUBLIC HEARING, AND INVITE BOTH ORAL AND WRITTEN TESTIMONY. THE PLANNING COMMISSION MAY CONTINUE THE PUBLIC HEARING TO ANOTHER MEETING TO OBTAIN ADDITIONAL INFORMATION OR CLOSE THE PUBLIC HEARING AND TAKE ACTION ON THE APPLICATION. THE PURPOSE OF THE PLANNING COMMISSION'S REVIEW IS TO MAKE A RECOMMENDATION TO THE CITY COUNCIL. THE COUNCIL WILL THEN HOLD A PUBLIC HEARING ON THE ITEM AT A LATER DATE.

ALL DOCUMENTS AND APPLICABLE CRITERIA IN THE ABOVE-NOTED FILE ARE AVAILABLE FOR INSPECTION AT NO COST OR COPIES CAN BE OBTAINED FOR TWENTY-FIVE CENTS (25¢) PER PAGE, OR THE CURRENT RATE CHARGED FOR COPIES AT THE TIME OF THE REQUEST. AT LEAST SEVEN (7) DAYS PRIOR TO THE HEARING, A COPY OF THE STAFF REPORT WILL BE AVAILABLE FOR INSPECTION AT NO COST, OR A COPY CAN BE OBTAINED FOR TWENTY-FIVE CENTS (25¢) PER PAGE, OR THE CURRENT RATE CHARGED FOR COPIES AT THE TIME OF THE REQUEST.

FOR FURTHER INFORMATION PLEASE CONTACT THE STAFF PLANNER **SEAN FARRELLY** AT 503-639-4171 (TIGARD CITY HALL, 13125 SW HALL BOULEVARD, TIGARD, OREGON 97223) OR BY EMAIL TO sean@ci.tigard.or.us.

Exhibit A

City of Tigard

DCA 2006-00005

SUMMARY OF PROPOSED AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE

Proposed Code Amendment to Allow Meeting and Event Uses as a Conditional Use in Historic Resources in Residential Zones

ADDITIONS indicated by *Italics and Bold*

PROPOSED DEVELOPMENT CODE TEXT CHANGES:

Chapter 18.130 USE CLASSIFICATIONS

Section 18.130.020 Listing of Use Categories

C. Commercial Use types

9. Meeting and Event Use: Activities including parties, weddings, luncheons, meetings, charitable fund raising, or other gatherings for direct or indirect compensation.

18.330 CONDITIONAL USE

Section 18.330.050 Additional Development Standards for Conditional Use Types

21. Meeting and Event Uses in Residential Zones

a. The property where the use will occur must be in a Historic Overlay zone and/or on the National Register of Historic Places.

b. Yearly maximum number of events: A maximum of 18 meetings or events may be held per year.

c. Maximum number of persons attending a meeting or event: The maximum number of persons attending an event shall be 40, provided however, that up to 200 persons may attend up to 6 meetings or events per year. The number of persons attending an event shall include all persons present on the property and participating in any way in the meeting or event, including hosts, workers, volunteers, as well as the guests and invitees.

d. Hours of operation: The meetings or events may be held between 7 AM and 9 PM. All activities related to the meetings or events, including clean-up must cease by 9 PM.

e. Lighting: No light source used for the meetings or events shall be directed at another property. All light sources shall be screened, hooded, or covered.

f. Sound systems: Outdoor amplified sound systems for the meetings or events shall not be permitted.

g. Noise: For the purposes of noise regulation, the provisions of Section 7.40.130

through 7.40.210 of the Tigard Municipal Code shall apply.

- h. Parking: A parking plan for each meeting or event shall be submitted to the Community Development Department one week prior to the event. This plan shall include a description of the event, the number of expected guests, evidence of the availability of on- street and off-street parking, and signed agreements with any providers of off-street parking for guests.*
- i. No signs related to the conditional use are permitted.*
- j. The Hearings Officer may impose additional site specific conditions on the approval of the conditional use, as referenced in Section 18.330.30.B.*
- k. Violations of the conditions of approval or code provisions could result in the revocation of the conditional use permit by the Director.*
- l. The conditional use is allowed to continue so long as the property retains its Historic Overlay and/or National Register of Historic Places designation.*

Chapter 18.740 HISTORIC OVERLAY
Section 18.740.030 General Provisions

E. Incentives for maintenance. In an effort to assist in the upkeep and restoration of properties with a Historic Overlay designation and/or listing on the National Register of Historic Places, Meeting and Event Uses may be permitted, subject to Conditional Use approval, in all residential zones.

Chapter 18.510 RESIDENTIAL ZONING DISTRICTS

(Add Historic Place Meeting and Event Use as a Conditional Use in all Residential Districts. Footnote to indicate applicable to Historic Overlay/National Register of Historic Places only.)

**TABLE 18.510.1
USE TABLE**

<u>USE CATEGORY</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3.5</u>	<u>R-4.5</u>	<u>R-7</u>	<u>R-12</u>	<u>R-25</u>	<u>R-40</u>
RESIDENTIAL								

Household Living	P	P	P	P	P	P	P	P
Group Living	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}	R ^{1/C}
Transitional Housing	N	N	N	N	N	C	C	C
Home Occupation	R ²	R ²	R ²	R ²	R ²	R ²	R ²	R ²
HOUSING TYPES								
Single Units, Attached	N	N	N	R ⁸	R ^{9/C}	P	P	P
Single Units, Detached	P	P	P	P	P	P	P	P
Accessory Units	R ³	R ³	R ³	R ³	R ³	R ³	R ³	R ³
Duplexes	N	N	C	C	P	P	P	P
Multi-Family Units	N	N	N	N	N	P	P	P
Manufactured Units	P	P	P	P	P	P	P	P
Mobile Home Parks/Subdivisions	N	N	C	C	P	P	P	P
CIVIC (INSTITUTIONAL)								
Basic Utilities	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴
Colleges	C	C	C	C	C	C	C	C
Community Recreation	C	C	C	C	C	C	C	C
Cultural Institutions	N	N	C	C	C	C	N	N
Day Care	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵
Emergency Services	C	C	C	C	C	N	N	N
Medical Centers	N	N	C	C	C	C	C	C
Postal Service	N	N	N	N	N	N	N	N
Public Support Facilities	P	P	P	P	P	P	P	P
Religious Institutions	C	C	C	C	C	C	C	C
Schools	C	C	C	C	C	C	C	C
Social/Fraternal Clubs/Lodges	N	N	N	N	N	C	C	C
COMMERCIAL								
Commercial Lodging	N	N	N	N	N	N	N	N
Eating and Drinking Establishments	N	N	N	N	N	N	N	N
Entertainment-Oriented								
- Major Event Entertainment	N	N	N	N	N	N	N	N
- Outdoor Entertainment	N	N	N	N	N	N	N	N
- Indoor Entertainment		N	N	N	N	N	N	N
- Adult Entertainment	N	N	N	N	N	N	N	N
General Retail								
- Sales-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
- Personal Services	N	N	N	N	N	N	R ¹¹	R ¹¹
- Repair-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
- Bulk Sales	N	N	N	N	N	N	N	N
- Outdoor Sales	N	N	N	N	N	N	N	N
- Animal-Related	N	N	N	N	N	N	N	N

TABLE 18.510.1 (CON'T)

<u>USE CATEGORY</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3.5</u>	<u>R-4.5</u>	<u>R-7</u>	<u>R-12</u>	<u>R-25</u>	<u>R-40</u>
<i>Historic Place Meetings and Events</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>	<i>C¹²</i>
Motor Vehicle Related								
- Motor Vehicle Sales/Rental	N	N	N	N	N	N	N	N
- Motor Vehicle Servicing/Repair	N	N	N	N	N	N	N	N
- Vehicle Fuel Sales	N	N	N	N	N	N	N	N
Office	N	N	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N	N	N
Non-Accessory Parking	N	N	N	N	N	C ¹⁰	C ¹⁰	C ¹⁰
INDUSTRIAL								
Industrial Services	N	N	N	N	N	N	N	N
Manufacturing and Production								
- Light Industrial	N	N	N	N	N	N	N	N
- General Industrial	N	N	N	N	N	N	N	N
- Heavy Industrial	N	N	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N	N	N
Research and Development	N	N	N	N	N	N	N	N
Warehouse/Freight Movement	N	N	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N	N
OTHER								
Agriculture/Horticulture	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶	N	N	N
Cemeteries	N	N	C	C	C	N	N	N
Detention Facilities	N	N	N	N	N	N	N	N
Heliports	N	N	N	N	N	N	N	N
Mining	N	N	N	N	N	N	N	N
Wireless Communication Facilities	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷
Rail Lines/Utility Corridors	C	C	C	C	C	C	C	C

P=Permitted

R=Restricted

C=Conditional Use

N=Not Permitted

¹Group living with five or fewer residents permitted by right; group living with six or more residents permitted as conditional use.

²Permitted subject to requirements Chapter 18.742.

³Permitted subject to compliance with requirements in 18.710.

⁴Except water and storm and sanitary sewers, which are allowed by right.

⁵In-home day care which meets all state requirements permitted by right; freestanding day care centers which meet all state requirements permitted conditionally.

⁶When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.

⁷See Chapter 18.798, Wireless Communication Facilities, for requirements for permitted and restricted facilities.

⁸Attached single-family units permitted only as part of an approved planned development.

⁹Permitted by right if no more than five units in a grouping; permitted conditionally if six or more units per grouping.

¹⁰Only park-and-ride and other transit-related facilities permitted conditionally.

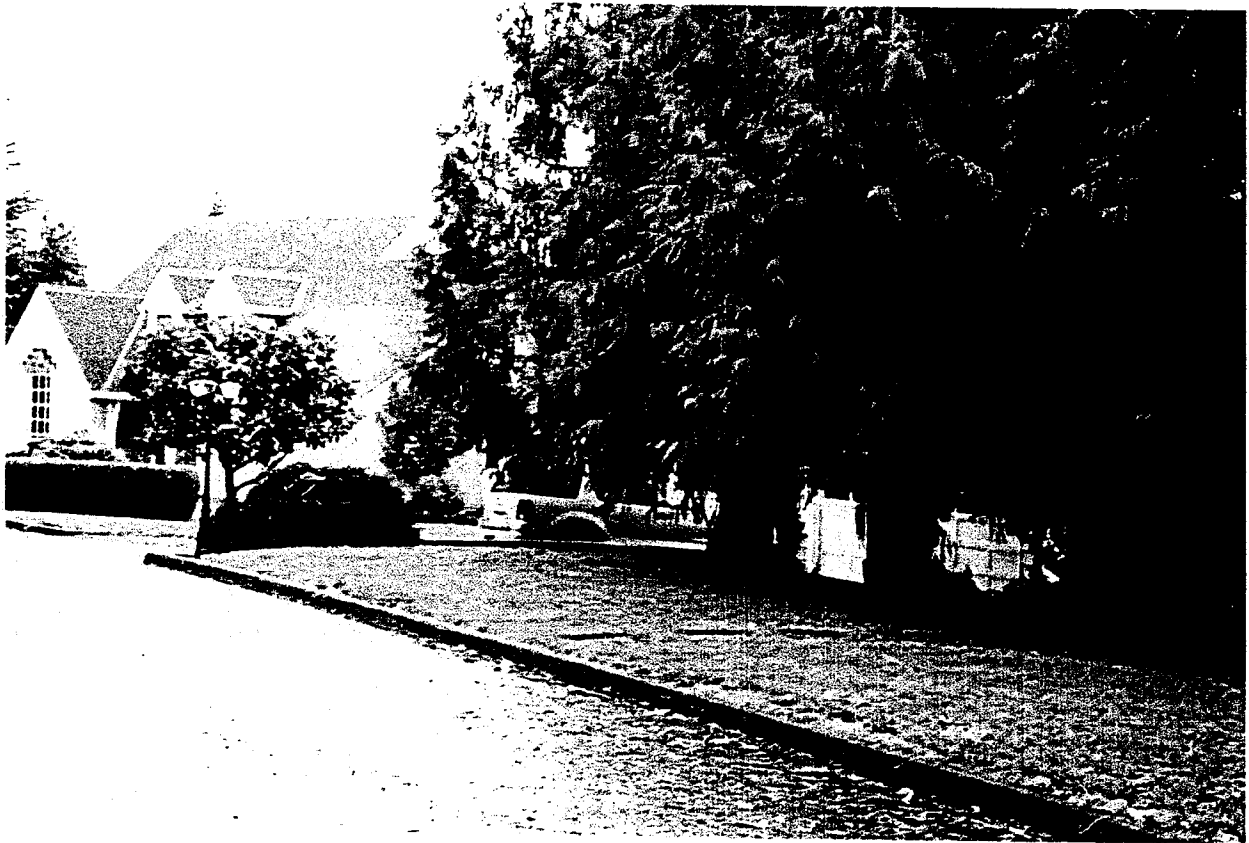
¹¹Limited to ground-floor level of multi-family projects, not to exceed 10% of total gross square feet of the building.

¹²*Limited to properties that have a Historic Overlay and/or are on the National Register of Historic Places.*



















Oregon's Statewide Planning Goals & Guidelines

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

OAR 660-015-0000(5)

(Please Note: Amendments Effective 08/30/96)

To protect natural resources and conserve scenic and historic areas and open spaces.

Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.

The following resources shall be inventoried:

- a. Riparian corridors, including water and riparian areas and fish habitat;
- b. Wetlands;
- c. Wildlife Habitat;
- d. Federal Wild and Scenic

Rivers;

- e. State Scenic Waterways;
- f. Groundwater Resources;
- g. Approved Oregon Recreation

Trails;

- h. Natural Areas;
- i. Wilderness Areas;
- j. Mineral and Aggregate

Resources;

- k. Energy sources;
- l. Cultural areas.

Local governments and state agencies are encouraged to maintain

current inventories of the following resources:

- a. Historic Resources;
- b. Open Space;
- c. Scenic Views and Sites.

Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal.

GUIDELINES FOR GOAL 5

A. PLANNING

1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.

2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.

3. Natural resources and required sites for the generation of energy (i.e. natural gas, oil, coal, hydro, geothermal, uranium, solar and others) should be conserved and protected;

reservoir sites should be identified and protected against irreversible loss.

4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.

6. In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected.

7. As a general rule, plans should prohibit outdoor advertising signs except in commercial or industrial zones. Plans should not provide for the reclassification of land for the purpose of accommodating an outdoor advertising sign. The term "outdoor advertising sign" has the meaning set forth in ORS 377.710(23).

B. IMPLEMENTATION

1. Development should be planned and directed so as to conserve the needed amount of open space.

2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.

3. The efficient consumption of energy should be considered when utilizing natural resources.

4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.

5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.

6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas.

7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.

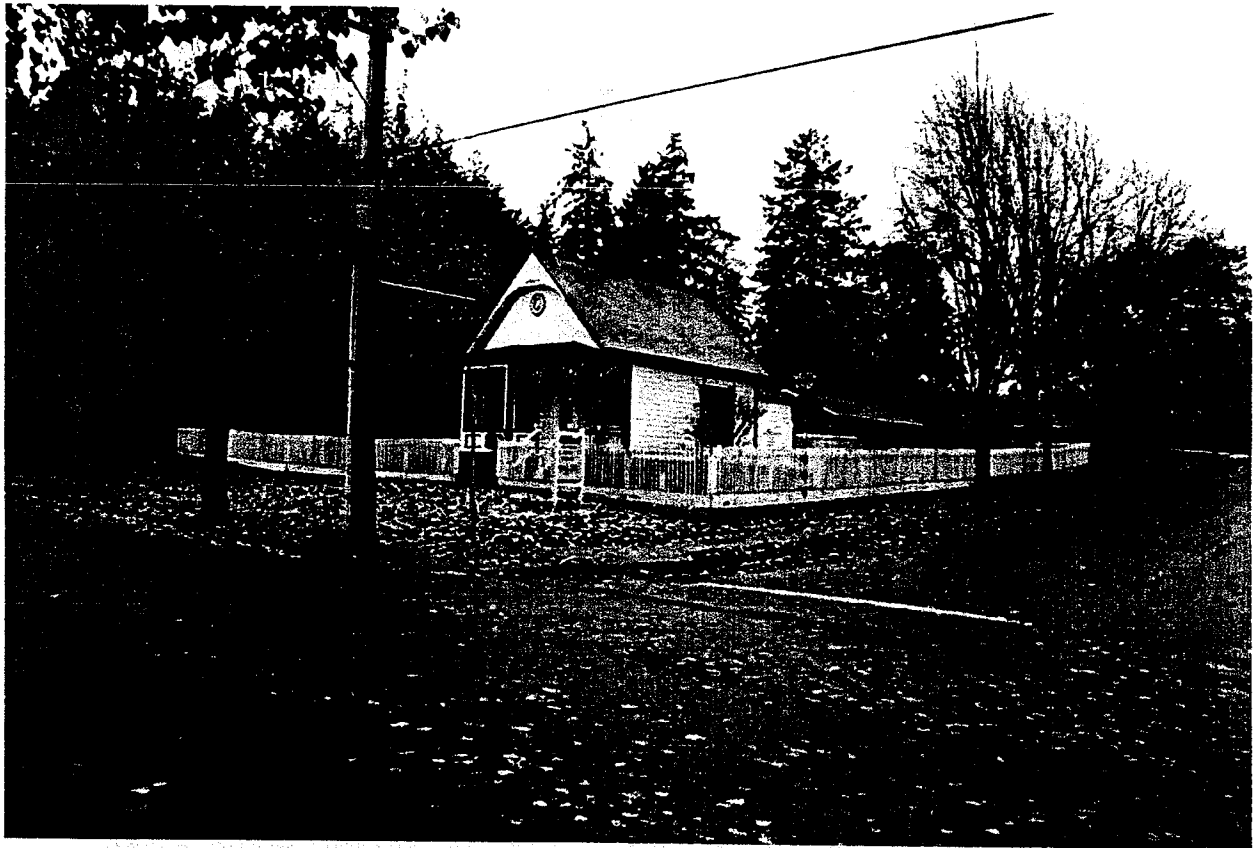
8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.

9. Areas identified as having non-renewable mineral and aggregate resources should be planned for interim,

transitional and "second use" utilization
as well as for the primary use.













City of Tigard, Oregon

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Historical Tigard

Home > Community > About Tigard > Historical Tigard

DESIGNATED HISTORICAL SITES

Durham Elementary School, 8040 SW Durham Rd.

Year Designated: 1984
Built in 1920, the school is significant in its association with early Oregon pioneer and businessman Albert Durham.



Ye-Olde Windmill, 121st St. and Katherine St.

Year Designated: 1984
Built in 1909 by Edward Christensen, the water tower stands as a visible testimonial to the surrounding land's original agricultural use and to the Wood-Christensen families who lived and farmed there.



Charles F. Tigard House, 11180 SW Fanner St.

Year Designated: 1984
Constructed in 1909, this is the second house occupied by Charles F. Tigard, the seventh son of Tigard's namesake. Charles established the area's first general store and was involved in other commercial activities.



Tigard Farmhouse and Windmill, 10525 SW Tigard St.

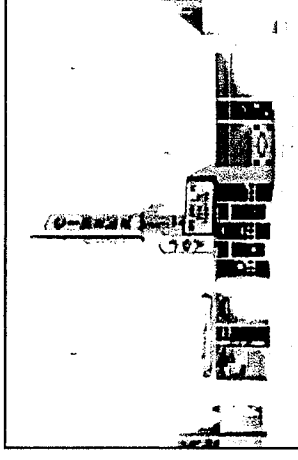
Year Designated: 1986

Built in 1900's, the house is significant due to its association with the Cowgill family. Hal Cowgill, who purchased the property in 1936, was a long-time employee of Pacific Power and Light. The residence is one of the few bungalow farmhouses with a water tower still intact.

**Joy Theater, 11959 SW Pacific Hwy.**

Year Designated: 1986

Constructed in 1939, the theater building is significant as an example of the Art Deco/Modern Style. Substantial exterior alteration, approved by the City, occurred in 1992. The basic massing and style of the building was preserved and enhanced by the alterations.

**Tigard Grange #148, 13770 SW Pacific Hwy.**

Year Designated: 1986

In continuous use since 1925, the building is an important landmark because it is representative of the efforts of early grange members, including Wilson Tigard.

**Seven Gables Upshaw House, 9890 SW Peppertree Lane**

Year Designated: 1986

The residence is significant in its association with the Upshaw family since 1909, when the Rev. William Loomis Upshaw retired to the house after serving as the minister of a north Portland church and became involved with the production and marketing of apples.

**John Tigard House, 10310 SW Canterbury Ln.**

Year Designated: 1979

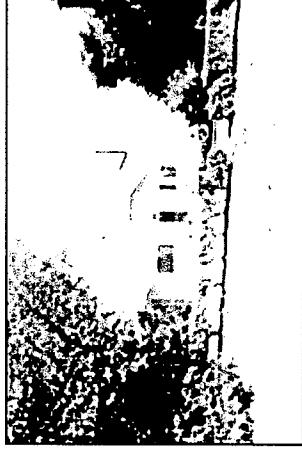


Built in 1880, the house is one of two Tigard sites listed on the National Historic Register. John Tigard was the eldest son of Wilson Tigard, the founding father of Tigardville. John operated a coach route from Tigardville to Portland. The house is significant in its association with John and as an example of early frame construction.

Gaarde House, 11333 Gaarde St.

Year Designated: 1991

The house was built in 1922 by Hans Gaarde, the son of John Gaarde, who established a blacksmith shop in 1893 across the road from Charles Tigard's store. The house is one of the few remaining examples of the bungalow style with Craftsman detail. Its significance rests primarily on its association as a landmark of the Gaarde family's early presence in Tigard.

**Shaver-Bilyeu House, 16445 SW 92nd Avenue**

Year Designated: *1993

Constructed in 1906, the Shaver-Bilyeu House is the best surviving vernacular Queen Anne Cottage farm residence in the Durham community of Tigard. It is significant culturally due to its association with the Shaver family, who contributed to the formation of the local school district, and to its later association with J.C. Bilyeu, first postmaster of Tigard. [*note: listed on the national but not the local registry]



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City of Tigard
DCA 2006-00005

PROPOSED AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE

Proposed Code Amendment to Allow Meeting and Event Uses as a Conditional Use in Historic Resources in Residential Zones

PROPOSED DEVELOPMENT CODE TEXT CHANGES:

Chapter 18.130 USE CLASSIFICATIONS

Section 18.130.020 Listing of Use Categories

C. Commercial Use types

9. Meeting and Event Use: Activities including meetings, charitable fund raising.

18.330 CONDITIONAL USE

Section 18.330.050 Additional Development Standards for Conditional Use Types

21. Meeting and Event Uses in Residential Zones

- a. The property where the use will occur must be in a Historic Overlay zone and/or on the National Register of Historic Places. The property must be publicly owned, or owned and operated by a registered non-profit historical association.
- b. Yearly maximum number of events: A maximum of 12 historical related events, meetings, or fund-raisers may be held per year, provided that not more than one event occurs in any month.
- c. Maximum number of persons attending a meeting or event: The maximum number of persons attending an event shall be 40. The number of persons attending an event shall include all persons present on the property and participating in any way in the meeting or event, including hosts, workers, volunteers, as well as the guests and invitees.
- d. Hours of operation: The meetings or events may be held between 9 AM and 9 PM. All activities related to the meetings or events, including clean-up must cease by 9 PM.
- e. Lighting: No light source used for the meetings or events shall be directed at another property. All light sources shall be screened, hooded, or covered.
- f. Screening: All areas used for meetings or events shall be screened visually from all adjacent properties with a solid 6-8 foot hedge, wall, or fence.
- g. Sound systems: Outdoor and indoor amplified sound systems for the meetings or events shall not be permitted. Entertainment is prohibited outdoors at these events or meetings. Entertainment as a part of any commercial use[s] involving fund-raising or compensation is prohibited at the events.

7.

Cary and Benton Holzwarth
9240 SW Millen Dr.
Tigard, OR

Dear Members of the Tigard Planning Commission and Tigard City Council:

We are writing today in regard to the hearing to be held affecting the Historic Overlay Conditional Use Code Amendment that is before the Tigard Planning Commission and the Tigard City Council.

My husband and I are homeowners at 9240 S.W. Millen Dr. Our property shares a fence line with the Quello's, one of the historic properties that would benefit from this amendment.

The concrete pad the Quello's poured for their tent is about 15 feet from the property line between our yards and less than about 50 feet from our back door. Conversations, music and DJ announcements all carry over well into our yard. When we're ready to turn in early with the rear windows open on a summer evening, how late will we have to listen to his party revelers before we can get to sleep? Likewise, we would assume our dog barking, lawn mowing and other noise would carry over to his yard. Dan may be expecting it; it may be his guests that are caught off guard with the noise of our activities.

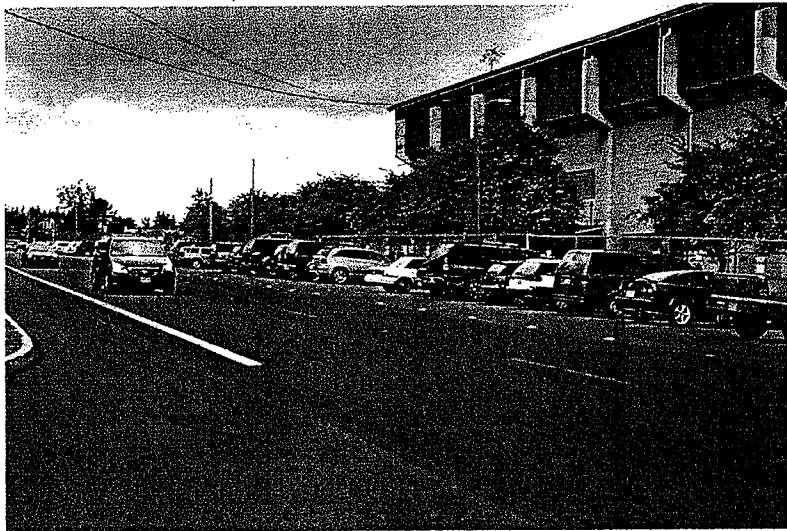
The first time that this conditional use amendment was considered, Mr. Quello used the Tigard High School parking adjacent to the soccer and football fields, directly across from his home. School activities and the use of that parking have grown steadily over the years. I don't know how he would be able to provide convenient parking for the guests that would be attending his functions. You might check with the police department as to how many tickets they've written for illegal parking this season. Knowing that only a small fraction of violators are actually ticketed, you might have some appreciation for how saturated the street parking already is, all through the spring, summer and fall seasons. With the steady stream of cars rolling up and down 92nd heading to Cook park or trolling for spaces, it already takes as much as a couple minutes patient waiting before we can find a gap to enter 92nd from Millen. (Please see the attached photos for a 'typical Saturday afternoon' on Millen Dr. adjacent to 92nd, and views to the left and right on 92nd from the corner of Millen.)

Two more problems to consider are the trash (corks and bottles) that were littered around the neighborhood following his previous events, and the risks created by drivers who have been drinking.

We knew when we moved here that there would be football games, soccer Saturdays and community activities at Cook Park. There are already enough of strange people in our neighborhood, do we need additional cars and people added to what we already need to contend with? We feel his chosen business is simply not compatible with a residential neighborhood. We think the sort of operation he intends really needs to be held in a more rural location or he needs to provide more buffer space between his neighbors and his guests.

We recognize that this property would be a beautiful setting for a party or a wedding, but asking the surrounding neighborhood to subsidize him through our loss of utility, after already subsidizing him through his tax-rate freeze, does not seem fair or at the very least neighborly. We urge you to vote against this code amendment.

Benton Holzwarth 31 Oct 06
Cary Holzwarth 31 Oct 06



October 29, 2006

I am dismayed that this issue is being revisited because of the number of hearings I attended and letters I wrote to protect my own property rights in 2002 and 2003. Mr. and Mrs. Quello are retired and have time to woo new neighbors and city council members who were not present during the original hearings. I am a full-time home health nurse and single parent of 2 children. Yet again I have to take time away from work and parenting to respond to the harmful actions of a neighbor.

The issues remain the same. I live in Kneeland Estates lot 13. The weddings of 2002 took place in the north side of the Quello property that borders a natural gulley. Physically, the weddings were within 20 feet of my home. His home is at least 80- 100 feet from the section of property used for the weddings. When the weddings were first his daughter and a few families he knew, we decided as a neighborhood to be respectful and to not use our back yards during those times. However, when he added weddings for pay and without any business license or consultation with the city, we changed our minds. There were weddings on both Saturday and Sunday, both afternoon and evening when we wanted to mow our lawns or let our dogs and children run in the backyard. Noise started mid afternoon and ran into 10 pm or later. As a nurse, I work a lot of weekends and need to be up by 4 or 5 am. Many of us have young children or just find our backyards as a place for quiet solace. The weddings impacted us to the point where our backyards were unusable during the primetime summer months.

The property borders Lot 13 through Lot 22. The natural gulley acts as a sound tunnel that funnels noise/music to the whole neighborhood. There was no noise monitoring and no recourse for neighbors on the weekends to report noise violations. Additionally, the walls and windows of my living room and 2 bedrooms that are adjacent to our shared property line shook due to the music. My children and I had to leave home or live in the family room. The new neighbors who moved in after 2003 have no idea how bad it was.

In the original hearings, the neighbors that spoke in favor of the weddings live adjacent to the south end of the property and were not impacted due to the natural tree buffer and the Quello house is between their property and the location of the weddings.

Mr. Quello was using private property for his guests for parking, that is the parking that is across 92nd Avenue that belongs to Tigard/Tualatin school district. The school district has first priority on the property, the soccer and baseball groups second. He was using the parking without permission in 2002 for his income-generating business. In the 2003 hearings, he behaved as if he was entitled to use this parking. As the school and sports clubs have more and more activities, that parking is currently being used for what it was intended.

There were several large weddings in which champagne was served and then guests drove themselves home. I found many corks in my backyard. Allowing impaired drivers near evening school activities is a setup for disaster.

The Quellos moved into their home in 1990. His wife and children slept on the floor of my living room that summer until their home was livable. My ex-husband and his friend helped paint and repair their home. I remember how bad the property was prior to them buying it and they did do a service to the community. At no time did they disclose any plans to use their home as a business. They now have a historical designation and get a reduction in taxes. The rest of the neighborhood has repaired and improved their homes but get no such designation.

Mr. Quello commented in the original hearings that the neighborhood is already impacted by the Balloon Festival and the marching band and sports activities. However, these activities are public events or school activities, not private-for-profit events. If I am bothered by the drummers practicing under the stadium, using it like a performance shell so it sounds like they are in my living room, or if someone forgets to turn off the lights in the stadium so they shine in my bedroom at midnight, I have recourse. There is no one to call at 9 pm on Saturday about noise/music at the Quellos who can enforce any noise ordinance. This is not an appropriate use of the police and the neighbors have had no recourse in the past. Since no police knocked on his door, he has behaved as if the noise is okay.

Mr. Quello has threatened several times to sell and rezone his property for apartments. Apparently again, he feels he does not need to go through channels with the city but responds only if neighbors complain. The neighbors on the West side of his property stated he has poured concrete slabs for cottages, again without a permit. His property should be inspected.

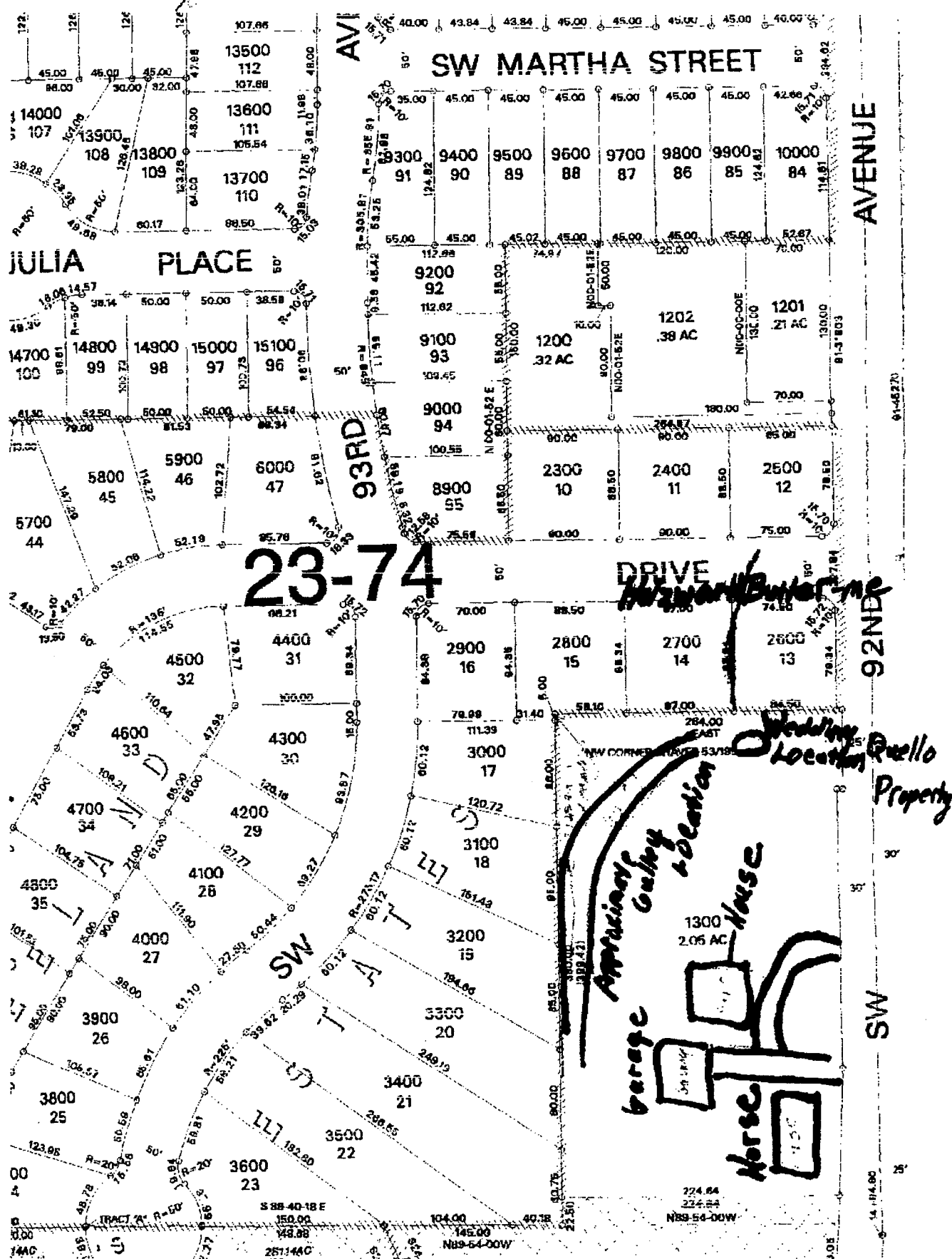
It is the house, not the property itself that is listed in the historic register. He has some parking available on his own property. A bed and breakfast would be a suitable use with requirements for noise, parking onsite, etc. I would support no outside activities except those that would be common for any home as long as there was a limit on the number attending such as max of 10 at an outdoor barbeque and that all participants park on the Quello property. I would not support any activities that are predominantly outside. The weddings happen only because he is an ordained minister, he has to officiate. This also is contrary to most other historic homes used for weddings, the pastor is usually an outside party and not affiliated with the owners of the location.

I recognize that sustaining a historic home is not without financial risk. However, this should have been considered when they bought the home. They should not be allowed to impact at least 10 other property owners due to their own financial problems. Please see a property map attached in which I have written in some locations I have described above.

I request that this letter be admitted as testimony in this matter. Thank you for your review of the above facts. I trust that decisions will be made to keep our neighborhood livable and that Mr. Quello's activities will not impact the usability or resale value of our homes.

Sincerely,

Karen L. Butler
9220 SW Millen Dr.
Tigard, OR 97224
971-506-6118



From: "Karen Butler" <klb1802@msn.com>
To: <dick@tigard-or.gov>, <sean@tigard-or.gov>, <tomc@tigard-or.gov>, <craigd@tigard-or.gov>, <nickw@tigard-or.gov>, <sydney@tigard-or.gov>, <tomw@tigard-or.gov>, <sallyh@tigard-or.gov>, "Karen Butler" <klb1802@msn.com>
Date: 11/20/2006 2:46:46 AM
Subject: Re: Historic Property uses, especially "Quello House" from Karen L. Butler, neighbor

November 20, 2006. Correction to the below letter. The wedding of 2002 was on the the Quello daughters. The dates below should be years 1999 and 2000, not 2002 and 2003 respectively. Please refer to the minutes of the previous hearings. I have a time conflict with another meeting tonight and I will not be attending the planning commission hearing. I hope you recommend against using the outside grounds of historical properties for any activity that produces noise, increased visitor traffic or otherwise impacts the livability of the neighborhood.

----- Original Message -----

From: Karen Butler<mailto:klb1802@msn.com>
To: dick@tigard-or.gov<mailto:dick@tigard-or.gov> ; sean@tigard-or.gov<mailto:sean@tigard-or.gov> ; tomc@tigard-or.gov<mailto:tomc@tigard-or.gov> ; craigd@tigard-or.gov<mailto:craigd@tigard-or.gov> ; nickw@tigard-or.gov<mailto:nickw@tigard-or.gov> ; sydney@tigard-or.gov<mailto:sydney@tigard-or.gov> ; tomw@tigard-or.gov<mailto:tomw@tigard-or.gov> ; sallyh@tigard-or.gov<mailto:sallyh@tigard-or.gov>
Sent: Sunday, October 29, 2006 8:22 AM
Subject: Historic Property uses, especially "Quello House" from Karen L. Butler, neighbor

October 29, 2006

I am dismayed that this issue is being revisited because of the number of hearings I attended and letters I wrote to protect my own property rights in 2002 and 2003. Mr. and Mrs. Quello are retired and have time to woo new neighbors and city council members who were not present during the original hearings. I am a full-time home health nurse and single parent of 2 children. Yet again I have to take time away from work and parenting to respond to the harmful actions of a neighbor.

The issues remain the same. I live in Kneeland Estates lot 13. The weddings of 2002 took place in the north side of the Quello property that borders a natural gulley. Physically, the weddings were within 20 feet of my home. His home is at least 80- 100 feet from the section of property used for the weddings. When the weddings were first his daughter and a few families he knew, we decided as a neighborhood to be respectful and to not use our back yards during those times. However, when he added weddings for pay and without any business license or consultation with the city, we changed our minds. There were weddings on both Saturday and Sunday, both afternoon and evening when we wanted to mow our lawns or let our dogs and children run in the backyard. Noise started mid afternoon and ran into 10 pm or later. As a nurse, I work a lot of weekends and need to be up by 4 or 5 am. Many of us have young children or just find our backyards as a place for quiet solace. The weddings impacted us to to the point where our backyards were unusable during the primetime summer months.

The property borders Lot 13 through Lot 22. The natural gulley acts as a sound tunnel that funnels noise/music to the whole neighborhood. There was no noise monitoring and no recourse for neighbors on the weekends to report noise violations. Additionally, the walls and windows of my living room and 2 bedrooms that are adjacent to our shared property line shook due to the music. My children and I had to leave home or live in the family room. The new neighbors who moved in after 2003 have no idea how bad it was.

In the original hearings, the neighbors that spoke in favor of the weddings live adjacent to the south end of the property and were not impacted due to the natural tree buffer and the Quello house is between their property and the location of the weddings.

Mr. Quello was using private property for his guests for parking, that is the parking that is across 92nd Avenue that belongs to Tigard/Tualatin school district. The school district has first priority on the property,

9.

October 25, 2006

Honorable Mayor Craig Dirksen, and Tigard City Council
Tigard City Hall
13215 SW Hall Blvd
Tigard, OR 97223

Honorable Mayor,

An article in the Tigard Times on August 24, 2006 alerted me and my wife to the fact that the Rev. and Mrs. Quello were again attempting to gain approval from the City to allow weddings and other public events on their historic property. Since we are going to be out of the country during the month of November, we wanted to make sure that we had the opportunity to go on record publicly in opposition to any changes in the code that might allow the commercial use of this property for weddings and other commercial outdoor events.

Almost all of the neighbors who opposed their 2000 request to allow weddings still live in the neighborhood. We remember all too well how in one summer in the late 1990's there were a couple weddings, and then at least one almost every weekend the following summer. Fridays or Saturday mornings would bring a rehearsal with the testing of the mikes, etc. Later in the day we were treated to the wedding march (usually Pachelbel's Canon in D) over the loudspeakers. After the vows came the soloist followed by the rumble of a large crowd before the D.J. music went on into the night. Only after the fact did the City Council consider these issues.

We were given assurances around this time by Rev. Quello that we should not be concerned because the weddings "would only take place on about 14 weekend days during the summer." These are the same weekends that the neighbors work or relax in their own backyards.

Yet on one occasion early in that season the Rev. Quello approached a neighbor who was mowing his lawn and asked him if he would wait until later to do this weekend chore so it would not interfere with the wedding. Although he was concerned that we not disturb the weddings, around that same time he installed a concrete pad and a tent for receptions near the North side of their property line—just a few feet from the property line of their neighbors. Further, even though there is some distance between the Quello house and the homes to the rear of their property, sounds reverberate to the West and down the creek because of the slight gully created by the marshy area and creek behind their property. The weddings impacted the whole neighborhood.

The Quello's have approached the neighbors at times when they thought it might help their cause, and have neglected to inform us on others. On September 16th of this year, I was working in my backyard when I heard the same wedding routine being repeated. I had no warning that this would happen. Granted that the activities were not as "in your face" as before, I still had to refrain from some of the activities I had intended so I would not interfere with the sacred event taking place nearby. We were frustrated to have to learn about the possibility of further events like this from the newspaper. We know that there are always public hearings and opportunity for community input. However, we were concerned because Mr. Coffee's comments in the paper made it seem like the process was already rolling without any notification to the affected citizens.

We are pleased that the Quello's decided to restore a decaying property and create a jewel for the community. My wife and I believe that a commercial use of the property that does not involve groups of people outside could be made compatible with the residential nature of the neighborhood.

Like we have, many of our neighbors have lived in this neighborhood since the mid 1980's. We have witnessed the growth in the area. We are now routinely challenged by the resulting increase of traffic, noise and lights from the nearby playing fields and the Cook Park balloon festival and other events.

In the same way that my barking dog or my lawn mower would interfere with an outdoor event on their property, their outdoor events and celebrations have a history of significantly negatively impacting their neighbors. We believe the code was written with situations like this in mind. During the request in 2000 to amend the code for historic properties, the City Council agreed that the requested outdoor uses were incompatible with a residential neighborhood. We believe they remain incompatible.

Sincerely,

Don and Barbara Manghelli
16415 SW 93rd Ave
Tigard, OR 97224

10.

From: "Miller, Lesli" <lmiller@jesuitportland.org>
To: <dick@tigard-or.gov>, <sean@tigard-or.gov>, <tomc@tigard-or.gov>
Date: 10/4/2006 11:00:02 AM
Subject: Quello House

Hi there!

I don't know if my input will be too late, but I did want to submit something. I live on SW 93rd. Basically my neighbors across the street's backyard backs up the the Quello house.

I have mixed emotions about this whole thing. While I do understand the concerns of my fellow neighbors , i.e parking issues, noise, loitering, etc. I also know that it is no different then what we all deal with at a Friday night Football game, Graduation, Fourth of July or the Balloon Festival. So I don't understand why this would be any different. Maybe because it might be several times in a year, who knows.

I have had the opportunity to meet the Quellos and my four-year old daughter loves their horse. They have the right to operate a business out of their home, don't they? But in the same sense, we as neighbors also have a right to enjoy our evenings at home without hearing somebody's wedding toast.

I don't envy your jobs

Lesli R. Miller

Campus Receptionist

Volunteer Coordinator

City of Tigard
Engineering
County of Washington
State of Oregon

11 ✓
Oct. 2.06

Mr. Duenas:

For two years I have been requesting of the City of Tigard to reduce the speed limit from the current speed of 35 mph. to a speed of 20 mph.

Appropriately the speed between 7a.m. and 5p.m. Monday thru Friday is 20mph.

FACT: This Street is only 3 blocks long

FACT: The entire east side of those 3 blocks is Tigard high school

FACT: Those same 3 blocks have what appear to be 130 illegal dangerous parking spots that require the driver to back blindly onto the road.

FACT: The west side of the street has 14 residential driveways.

FACT: The end of the 3 blocks is the entrance to Cook Park where the posted speed is 15mph

If someone will check the record to see the combined activities of:

1. The use of the fields by the actual high school students, Football, Baseball, Soccer etc.
2. The renting out of the fields ALL NITE AND ALL WEEKEND!
3. The extensive use of the fields in Cook Park ALL NITE AND ALL WEEKEND
4. The community events i.e. Balloon festival, Chinook Soccer championships etc.

They would see that there are more bodies and cars in the evening and weekends than there are most days. Any one attending these events can't even find parking!!! Check with the Tigard police and see how many tickets they have issued for parking violations! Most people are either elderly (watching their grandchildren) or small children watching brothers and sisters.

ANYONE DRIVING 35 MPH SHOULD BE PUT IN JAIL!!! And yet it is the posted speed.

Why is this accident waiting to happen? Where are our moral responsibilities to the community?

Does one of our loved one need to be killed before someone applies **common sense** to this situation?

Awaiting your response:



Mark Walker
Citizen and father

971-563-7255

Hello neighbor,

Tigard's City Council is considering amending city code that will affect all historic property in Tigard, allowing private events to be held at each.

There will be a public hearing (date to be determined) and a code amendment proposal will be put forth. There are at least 10 historic properties in Tigard, but changes would only pertain to 2 or 3. These changes would especially pertain to, and allow events at The Quello House in our neighborhood on SW 92nd Avenue.

Code 'language' has not been written and 'conditional use' restrictions have not been defined, but some of the considerations are:

- Number of annual events
- Time limitations
- Addressing sound issues
- Providing adequate parking

150 more cars!

There aren't enough Now!
They Park on Waverly Every Week

All historic properties would have to address each restriction prior to obtaining a permit once the code changes go into effect.

As a local homeowner you need to make your concerns known every step of the way. You can write your city council members and express your opinions right now, prior to October hearings. Dick Bewersdorff, Planning Manager and Sean Farrelly, Associate Planner have already received some phone calls from concerned neighbors. We have been encouraged to put everything in writing so that they can keep a better record of our opinions.

Please contact these people at:
City Of Tigard Oregon
13125 SW Hall Blvd
Tigard, OR 97223

Dick Bewersdorff
Planning Manager
503-718-2432
dick@tigard-or.gov

Sean Farrelly
Associate Planner
503-718-2420
sean@tigard-or.gov

Tom Coffee
Community Development
Director
503-718-2443
tomc@tigard-or.gov

Council Members are:

Mayor Craig Dirksen craigd@tigard-or.gov

Councilor Nick Wilson nickw@tigard-or.gov

Councilor Sydney Sherwood sydney@tigard-or.gov

Councilor Tom Woodruff tomw@tigard-or.gov

Councilor Sally Harding sallyh@tigard-or.gov

Thank you for your time,
Neighbor Cary Holzwarth, 503-684-2008 SW Millen Drive
September 27, 2006

are you
kidding, thats all
we need in our
Residential
neighborhood

Agenda Item #

Meeting Date

December 12, 2006

COUNCIL AGENDA ITEM SUMMARY

City Of Tigard, Oregon

Issue/Agenda Title Public Hearing on Comprehensive Plan Amendment (CPA) 2006-00001 and Development Code Amendment (DCA) 2006-00004

Prepared By: Denver Igarta Dept Head Approval:  City Mgr Approval: 

ISSUE BEFORE THE COUNCIL

Shall Council approve the Planning Commission's recommendation to approve comprehensive plan and development code amendments to implement the recommendations of the *Tualatin Basin (Goal 5) Fish and Wildlife Habitat Program* in order to comply with Statewide Planning Goal 5 and Title 13 of Metro's Urban Growth Management Functional Plan?

STAFF RECOMMENDATION

Council is requested to approve the Planning Commission's recommendation and adopt the proposed Habitat-Friendly Development Provisions.

KEY FACTS AND INFORMATION SUMMARY

In 2002, Metro completed an inventory of regionally significant riparian corridors and wildlife habitat in accordance with Statewide Planning Goal 5 procedures and requirements outlined under Oregon Administrative Rule (OAR) 660-023.

Also in 2002 (April), Council approved entering into an intergovernmental agreement with other local Washington County jurisdictions forming the *Tualatin Basin Partners for Natural Places*. The purpose for forming the Tualatin Basin Partnership was to establish a basin-specific habitat protection program by analyzing the impacts locally of allowing, limiting or prohibiting development within regionally inventoried resource areas. Since 2002, the City of Tigard has participated on the Tualatin Basin Partners' Steering Committee (comprised of staff representatives) and Natural Resource Coordinating Committee (comprised of elected local officials).

From 2004-2005, the Tualatin Basin Partners completed a refinement to the resource inventory, an economic, social, environmental and energy (ESEE) analysis, and adopted a Fish and Wildlife Habitat Program (and map). In September 2005, Metro Council formally approved the Basin Program as a compliance option for Metro Functional Plan Title 13 (Nature in Neighborhoods), which was acknowledged by the State Land Conservation and Development Commission (LDCD) in October 2006.

In February 2006, City Council authorized signing a new intergovernmental agreement (IGA) extending the Tualatin Basin Partnership to jointly coordinate implementation of the approved Program. Local jurisdictions must now implement applicable elements of the Basin program as outlined in the *Tualatin Basin Program Implementation Report*.

On October 16, 2006, a public hearing was held with the Planning Commission concerning the proposed habitat-friendly development provisions (CPA 2006-00001/DCA 2006-00004). At the hearing, the Planning Commission

voted unanimously to recommend approval of the amendments subject to some modifications to the proposed code language.

On November 21, 2006, City Council reviewed the Planning Commission's recommendation in anticipation of the public hearing schedule on December 12, 2006, where Council will decide to approve, modify or deny the application for legislative change.

OTHER ALTERNATIVES CONSIDERED

Other alternatives were considered but deemed not viable.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

2006 City Council Goals:

- Revise the City of Tigard Comprehensive Plan
- Consider Opportunities for Major Greenspaces Purchases

Tigard Beyond Tomorrow:

- Growth and Growth Management: Growth will be managed to protect the character and livability of established areas, protect the natural environment and provide open space throughout the community.
- Urban & Public Services: Open space and greenway areas shall be preserved and protected.

ATTACHMENT LIST

Attachment 1: An Ordinance approving CPA 2006-00001 and DCA 2006-00004 to add a significant habitat areas map to Volume I of the Comprehensive Plan and Habitat Friendly-Development Standards to the Tigard Community Development Code.

Attachment 2: Metro Compliance Review Letter

Attachment 3: Memorandum to Council (December 12th Public Hearing on CPA 2006-00001/DCA 2006-00004)

Exhibit A: Tigard Significant Habitat Areas Map

Exhibit B: Tigard Municipal Code, Title 18 (Community Development Code) Amendments

Exhibit C: Staff Report to the Planning Commission

Exhibit D: Planning Commission Meeting Minutes – October 16, 2006

Exhibit E: Council Memo (Proposed Habitat-Friendly Development Provisions)

Exhibit F: Council Memo (Response to October 16th Public Hearing Issues and Comments)

FISCAL NOTES

Not applicable

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 06-_____

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AND DEVELOPMENT CODE AMENDMENTS – CPA 2006-00001 AND DCA 2006-00004 – TO ADD A SIGNIFICANT HABITAT AREAS MAP TO VOLUME I OF THE COMPREHENSIVE PLAN AND HABITAT-FRIENDLY DEVELOPMENT STANDARDS TO THE TIGARD COMMUNITY DEVELOPMENT CODE – CHAPTERS 18.360, 18.370, 18.705, 18.715, 18.765, 18.775 AND 18.810.

WHEREAS, the Portland Metropolitan Service District (Metro) decided, with participation of regional jurisdictions, to prepare a regional program to protect and restore riparian corridors and wildlife habitat; and

WHEREAS, Metro's Nature in Neighborhoods Program was adopted by Metro Council as Title 13 of the Regional Urban Growth Management Functional Plan, and Metro area jurisdictions are required to comply with Functional Plan requirements; and

WHEREAS, Title 13 of Metro's Functional Plan has been acknowledged by the Oregon Land Conservation and Development Commission (LCDC) as complying with statewide planning goals and administrative rules; and

WHEREAS, Tigard and other jurisdictions and various service districts in Washington County entered into an intergovernmental agreement to jointly prepare and coordinate a natural resources protection program based on conditions and circumstances unique to the Tualatin Basin; and

WHEREAS, the Tualatin Basin Fish and Wildlife Habitat Protection Program was approved by Metro Council as an alternative means to implement Metro's Nature in Neighborhoods Program; and

WHEREAS, on October 16 , 2006, the Tigard Planning Commission held a public hearing and voted unanimously to recommend, with minor amendments, that Council adopt CPA 2006-00001 and DCA 2006-00004; and

WHEREAS, on December 12, 2006, the City Council held a public hearing to consider the Commission's recommendation on CPA 2006-00001 and DCA 2006-00004, hear public testimony and apply applicable decision-making criteria.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard Comprehensive Plan is amended to include the Tigard Significant Habitat Areas Map ("EXHIBIT A").

SECTION 2: The Tigard Municipal Code, Title 18 (Community Development Code) is amended per "EXHIBIT B" to include habitat-friendly development provisions.

SECTION 3: The findings and conclusions contained in the Staff Report dated October 16, 2006, the Planning Commission meeting minutes for October 16, 2006, and two memoranda to Council pertaining to *Proposed Habitat-Friendly Development Provisions* and *Response to October 16th Public Hearing Issues and Comments* both dated November 7, 2006, are adopted by reference ("EXHIBIT C", "EXHIBIT D", "EXHIBIT E", and "EXHIBIT F" respectively).

SECTION 4: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2006.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2006.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date



METRO

November 17, 2006

Denver Igarta
Associate Planner
City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223

**RE: CITY OF TIGARD PLAN AND DEVELOPMENT CODE AMENDMENTS TO IMPLEMENT
TUALATIN BASIN FISH AND WILDLIFE HABITAT PROGRAM UNDER METRO TITLE 13 (CPA
2006-00001/DCA 2006-00004)**

Dear Mr. Igarta:

It has been a pleasure working with you over the past several months reviewing the City's proposed plan and development code amendments to comply with Title 13 of the Metro Urban Growth Management Functional Plan (Metro Code 3.07.1310 through .1370). This letter summarizes the issues we have communicated about by phone and email and serves as Metro's compliance review under Title 8 (MC 3.07.820 A).

The materials I have reviewed include the "City of Tigard GAP Analysis for the Tualatin Basin Goal 5 Program," comprehensive plan amendments and development code amendments (CPA 2006-00001 and DCA 2006-00004), a section by section staff commentary on proposed plan and code amendments, and several revisions to the proposed code amendment package as a result of Planning Commission review on September 25th and October 16th, 2006. The City provided Metro with a copy of its Notice of Proposed Amendment to DLCD 45 days before its first evidentiary hearing as required by MC 3.07.820(A).

As stated in the City's description of its plan and code amendments, Tigard is seeking to comply with elements of the Tualatin Basin Program adopted as part of Title 13 ("Compliance Option 5" MC 3.07.1330(B)(5)). This requires Tigard to undertake certain non-regulatory steps, including some on-going responsibilities that do not require amendments to Tigard's comprehensive plan and land use regulations. This compliance review by Metro is a review only of whether the amendments Tigard is proposing are consistent with the Urban Growth Management Functional Plan, and is not a review of whether Tigard has complied, or will comply, with the other requirements of Option 5 and the Tualatin Basin Program.

Summary

Title 13 Compliance Issues:

- Proposed code language does not limit application of the density reduction provision to lands that were within the Metro UGB as of January 1, 2002 as required under Title 13.
- Amend code language in TC 18.774.140 A. to add a simplified habitat verification approach as an option to the detailed delineation methodology proposed for the City's sensitive lands ordinance.

Suggestions:

- Consider adding language in TC 18.775.100 C.2 to require reporting density reductions to Metro Council by April 15th of each year.
- Exempt projects implementing the Clean Water Services Healthy Streams Plan from sensitive lands provisions in TC 18.775

- Adopt the proposed code amendments to allow density transfers on all lands identified on the "Significant Habitat Areas Map" in addition to those classified as Class I and II riparian corridors.
- Allow site design adjustments within the city's significant habitat areas.
- Adopt by reference Table 3.07.13c in Title 13 that lists 29 specific habitat-friendly development practices.
- Clarify code text that the "skinny street option" is not subject to the discretionary review process for determining "minimum rights-of-way and street widths" (TC 18.810 E.1) to facilitate construction of narrower streets through stream corridors.

Applicable Requirements for Compliance

There are essentially four substantive elements of Option 5 compliance that could require amendments to comprehensive plan and land use regulations. In order to comply with Title 13 under Option 5, Tigard must:

1. Remove local plan or code barriers to the use of habitat-friendly development practices within all regionally significant fish and wildlife habitat. Metro Code 3.07.1330(E). "[F]acilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate, in all areas identified as Class I and II riparian habitat areas on the Metro Regionally Significant Fish and Wildlife Habitat Inventory Map." Metro Code 3.07.1330(B)(5)(d) (see also, step 2 of the Tualatin Basin Program implementation steps, applicable via Metro Code 3.07.1330(B)(5)(a), which requires Tigard to adopt Low Impact-Development guidelines "to reduce environmental impacts of new development and removing barriers to their utilization," and Metro Code 3.07.1330(E) which requires Tigard to remove barriers to the use of such practices). Metro provides examples of such habitat-friendly practices in Table 3.07-13c of Title 13;
2. "[A]llow for the reduction of the density and capacity requirements of Title 1 of the [UGMFP]" for all properties within Metro's habitat inventory. Metro Code 3.07.1330(B)(5)(e) and 3.07.1330(H). Such allowance may be provided only for properties within the Metro urban growth boundary on January 1, 2002, require the protection of the habitat via a public dedication or restrictive covenant, and only allow for the density/capacity reduction in proportion to the amount of habitat permanently protected on the property;
3. Provide both a simple and a detailed process for property owners to verify the location of inventoried habitat on their property. Metro Code 3.07.1330(G); and
4. Adopt protection provisions consistent with Title 13 applicable to upland wildlife habitat areas within territory added to the Metro UGB in the future. Metro Code 3.07.1330(B)(5)(f). (A jurisdiction is not required to adopt such provisions at this time, it may choose to address this requirement at the time that new areas are brought into the UGB and concept planning and local zoning is applied.)

In addition to these substantive requirements, Tigard must, first, also ensure that provisions it adopts provide property owners with clear and objective compliance standards, Metro Code 3.07.1330(C), and may also provide discretionary compliance standards, Metro Code 3.07.1330(D). Second, Tigard must have made its proposed amendments available for public review at least 45 days prior to a public hearing regarding those amendments. Metro Code 3.07.1330(F).

Adoption of Significant Habitat Areas Map and Density Reduction

Title 13 requires cities and counties to allow reductions in regional density and capacity requirements to protect regionally significant fish and wildlife habitat or locally significant Goal 5 resources (MC 3.07.1330 H). Only properties within the Metro UGB as of January 1, 2002 can qualify for density reduction.

The City has adopted the Significant Habitat Areas Map attached as Exhibit B of the proposed plan and code amendments. This map identifies significant habitat areas with strictly limit, moderately limit, and lightly limit classifications based on the Tualatin Basin Program decisions. The map appears to be inclusive of Metro's

inventory of Regionally Significant Fish and Wildlife Habitat and as such is an appropriate tool to carry out the density reduction provisions of Title 13. Proposed code 18.775.100 implements the Title 13 provision for reduction in regional density requirements. The proposed code, however, does not limit application of the density reduction provision to lands that were within the Metro UGB as of January 1, 2002 as required under Title 13. We recommend the code be amended to include this date. In addition, we recommend language be added to TC 18.775.100 C.2 to require reporting density reductions to Metro Council by April 15th of each year.

Verification of SHA Boundaries

Title 13 requires local governments to adopt a simplified map verification process along with the more detailed process that you have included in the proposed code TC 18.775.140 (Significant Habitat Area Delineation Methodology). The simplified verification process is intended to be less burdensome on the property owners because it requires less detail. The proposed code is written to require a detailed delineation process by a "qualified professional at the applicant's expense" (see proposed TC 18.775.100 C.1.a and TC 18.775.140). Title 13's verification process states that "as often as reasonably possible, provide a simple, default approach that allows property owners to verify the location of habitat on a lot or parcel without having to hire an environmental consultant and without having to pay a significant processing or application fee" (MC 3.07.1330 G). Furthermore, in addition to being required, providing a simplified verification procedure makes it easier for a property owner, if he or she chooses, to take advantage of the density reduction provision. If the habitat verification process is too burdensome, then the density reduction provision is not likely to be used.

The text revisions for TC 18.774.140 A. that you forwarded to me in your 11/2/06 email add a simplified habitat verification approach and Metro recommends its adoption to implement this requirement of Title 13. I also note that those revisions can serve as a model for other local governments in the region to meet this requirement.

Density Transfers

As noted in the Tualatin Basin Implementation Report "Guidelines for Local Jurisdictions," on-site density transfer is an effective habitat-friendly development tool. Importantly, density transfers in regionally significant habitat areas should be allowed but not required. Staff recommended to allow on-site residential density transfers for properties that contain Significant Habitat Areas by amending the code's definition of "net development area." This change would allow residential density transfers in all sensitive land areas including, as an option, "significant habitat areas, as designated on the City of Tigard 'Significant Habitat Areas Map'" (TC 18.715.020 A.1.a-e.).

While this change would help meet Title 13 requirements for encouraging habitat-friendly development practices, the Planning Commission recommended that the proposed code changes found in TC 18.715 A.3 be deferred until issues related to design and review procedures are addressed. We encourage the City to adopt the proposed code amendments to allow density transfers on lands identified on the "Significant Habitat Areas Map."

Site Design Flexibility

Flexibility in site design is an important tool to aid in habitat protection under Title 13. The City originally proposed to extend code provisions allowing a 50% adjustment to dimensional standards (setback, height, or lot area) within or adjacent to vegetated corridors and significant habitat areas (TC 18.775.100 B). The Planning Commission recommendation is to reduce the habitat areas covered by this provision. The revised language applies the 50% adjustment provision to vegetated corridors and riparian resources classified as "strictly limit" and "moderately limit" under the Tualatin Basin Program's ESEE analysis. It excludes upland habitats and lower value riparian areas shown on the significant habitat areas map but classified as "lightly limit" (Summary of 9/25/06 PC Modifications). We recommend the city apply this provision to all the city's significant habitat areas.

Encouraging Habitat-friendly Development Practices

The city proposes to amend TC 18.360--Site Development Review—to require consideration of “innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat” within areas identified as significant habitat areas. Specifically, proposed code language identifies seven broad categories of methods and techniques for consideration including water quality facilities, pervious pavement, soil amendment, roof run-off controls, fencing to guide wildlife passage, outdoor lighting, and preservation of existing vegetative or canopy cover (TC 18.360.090 A.2.c) (Summary of 10/16/06 Planning Commission public hearing).

We recommend that the city adopt by reference Table 3.07.13c in Title 13 that lists 29 specific habitat-friendly development practices.

Sensitive Lands Exemptions

The Tualatin Basin Implementation Report recommends permitting culvert replacement and associated enhancement work outright and not requiring additional land use or vegetative corridor mitigation review for those culvert projects and enhancement projects listed in the Healthy Streams Plan. Metro's Title 13 Model Code also provides an exemption for “projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, state, or federal restoration or enhancement plan” (Metro Title 13 Model Ordinance Section 3 E.14).

The City originally proposed providing an exemption clause for projects performed under the direction of the City or in the implementation of the Clean Water Services Healthy Streams Plan. This exemption clause was removed (Planning Commission Summary of the 10/26/06 Hearing). We recommend that the exemption be provided for projects listed in the CWS Healthy Streams Plan to facilitate restoration and enhancement of vegetated corridors.

Minimize Paving through Habitat Areas

The Tualatin Basin Implementation Report recommends allowing narrowed paving width within stream corridors. Proposed amendments in TC 18.810.030 A.7 add “bodies of water and significant habitat areas” to the list of natural features where adjustments to street standards are allowed to reduce adverse impacts. In 2002 the City adopted “skinny street options” (20, 24, and 28 foot pavement widths) for local residential streets where review criteria are met (TC 18.810.4, .5, and .6). This process, in conjunction with obtaining a sensitive lands permit and CWS certification for development within vegetated corridors, provides a means to minimize pavement widths through stream corridors. We recommend making it more explicit in the code text that the “skinny street option” is not subject to the discretionary review process for determining “minimum rights-of-way and street widths” (TC 18.810 E.1).

Thank you for your time in discussing the City's compliance with Title 13 and the Tualatin Basin Program. If you have any questions about the content of this letter, please do not hesitate to contact me.

Sincerely,



Paul Ketcham
Principal Regional Planner

cc: Councilor Carl Hosticka, District No. 3
Michael Jordan, Chief Operating Officer
Christina Deffebach, LRRP Manager
Amanda Punton, DLCD



MEMORANDUM

TO: City Council

FROM: Denver Igarta, Associate Planner

RE: December 12th Public Hearing on CPA 2006-00001/DCA 2006-00004







DATE: November 28, 2006

On December 12, 2006, a public hearing will be held with the City Council to consider proposed amendments to the Tigard Comprehensive Plan and Community Development Code to encourage habitat-friendly development by implementing the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program in compliance with Statewide Planning Goal 5 and Metro Functional Plan Title 13 Nature in Neighborhoods.

The Comprehensive Plan Map and Development Code Chapters proposed to be amended are attached and changes are shown as follows:

- The original proposed language amending Development Code presented at the Planning Commission's October 16th Public Hearing is shown in blue. Language to be added is underlined and to be deleted is shown in ~~striketrough~~.
- Changes to the proposed language as modified by the Planning Commission at its Public Hearing on October 16, 2006, are shown in red. Language to be added is underlined and to be deleted is shown in ~~striketrough~~.
- Changes to the proposed language as suggested by Metro in its compliance review letter dated November 17, 2006, are shown in pink. Language to be added is underlined and to be deleted is shown in ~~striketrough~~.
- Changes to the proposed language based on feedback from Council at its public workshop on November 21, 2006, are shown in green. Language to be added is underlined and to be deleted is shown in ~~striketrough~~.

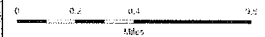
Proposed Significant Habitat Areas City of Tigard Oregon

-  **Strictly-Limit
Highest Value**
-  **Moderately-Limit
Moderate Value**
-  **Lightly-Limit
Lower Value**
-  **Taxlot Boundary**
-  **Railroad**
-  **City of Tigard**

The boundaries of inventoried habitat areas represent the general (and not precise) locations and are intended to be used to determine whether a site-specific delineation and determination is required.

This map was created as part of a detailed ESEEC analysis by the Tualatin Basin Partners for Natural Places of Metro inventoried regionally significant Riparian Corridors and Wildlife Habitats. The map illustrates the Basin-wide Affirm-Limit-Prohibit (ALP) decision, with the range of "Limit" divided into three levels—namely Lightly Limit, Moderately Limit, and Strictly Limit.

** The information represented on this map is current as of October 12, 2006. Revisions will be made as new decisions or amendments occur to alter the content of the map.



Sources: City of Tigard
Natural Resources Center
Washington County

Cartography: Community Development Dept.
City of Tigard

This map was derived from aerial photographs. The City cannot accept responsibility for any errors. Third party data are not guaranteed for accuracy. It is not a map.
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**PROPOSED
COMMUNITY DEVELOPMENT CODE
(TITLE 18) AMENDMENTS**

FILE NAME: **HABITAT-FRIENDLY DEVELOPMENT PROVISIONS**

CASE NUMBERS: **Comprehensive Plan Amendment (CPA) 2006-00001 /
Development Code Amendment (DCA) 2006-00004**

Chapter 18.360
SITE DEVELOPMENT REVIEW

Sections:

18.360.010	Purpose
18.360.020	Applicability of Provisions
18.360.030	Approval Process
18.360.040	Bonding and Assurances
18.360.050	Major Modification(s) to Approved Plans or Existing Development
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18.360.070	Submission Requirements
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18.360.010 Purpose

- A. Promote general welfare. The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the City.
- B. General purposes. It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the City of Tigard:
1. To implement the City of Tigard's Comprehensive Plan and other approval standards in this title;
 2. To preserve and enhance the natural beauties of the land and of the man-made environment, and enjoyment thereof;
 3. To maintain and improve the qualities of and relationships between individual buildings, structures and the physical developments which best contribute to the amenities and attractiveness of an area or neighborhood;
 4. To protect and ensure the adequacy and usefulness of public and private developments as they relate to each other and to the neighborhood or area; and
 5. To ensure that each individual development provides for a quality environment for the citizens utilizing that development as well as the community as a whole.
- C. Environmental enhancement. To prevent the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping, it is necessary:
1. To stimulate harmonious design for individual buildings, groups of buildings and structures, and other physical developments;
 2. To encourage the innovative use of materials, methods and techniques and flexibility in building placement; and

3. To integrate the function, appearance and location of buildings and improvements so as to best achieve a balance between private prerogatives and preferences, and the public interest and welfare.

18.360.020 Applicability of Provisions

- A. Applicability and exemptions. Site development review shall be applicable to all new developments and major modification of existing developments, as provided in Section 18.360.050, except it shall not apply to:

1. Single-family detached dwellings;
2. Manufactured homes on individual lots;
3. A duplex, which is not being reviewed as part of any other development;
4. Minor modifications as provided in Section 18.360.030B;
5. Any proposed development which has a valid conditional use approved through the conditional use permit application process;
6. Mobile home parks and mobile home subdivisions;
7. Family day care;
8. Home occupation;
9. Temporary use; or
10. Accessory structures.

18.360.030 Approval Process

- A. New developments and major modifications. Site development review for a new development or major modification of an approved plan or existing development, as defined in Section 18.360.030A, shall be processed by means of a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.360.090.
- B. Minor modifications. Minor modifications of an approved plan or existing developments, as defined in Section 18.360.060, shall be processed as a Type I procedure, as governed by Section 18.390.030, using approval criteria contained in Section 18.360.060.
- C. Approval period. Site development review approval by the Director shall be effective for a period of 1-1/2 years from the date of approval. The site development review approval by the Director shall lapse if:
1. Substantial construction of the approved plan has not begun within a one-and-one-half years period; or
 2. Construction on the site is a departure from the approved plan.

D. Extension. The Director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year; provided that:

1. No changes are made on the original site development review plan as approved by the Director;
2. The applicant can show intent of initiating construction on the site within the one year extension period; and
3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.

E. Phased development.

1. The Director shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.
2. The criteria for approving a phased site development review proposal is that all of the following are satisfied:
 - a. The public facilities are constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase is not dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable City or district standard;
 - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - d. The Director's decision may be appealed as provided by Section 18.390.040.G. No notice need be given of the Director's decision.
3. The Director may waive or modify the approval period for projects within the Washington Square Regional Center in accordance with Section 18.630.020.C.

18.360.040 Bonding and Assurances

- A. Performance bonds for public improvements. On all projects where public improvements are required the Director shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of approval of the site development plan in order to ensure the completed project is in conformance with the approved plan; and
- B. Release of performance bonds. The bond shall be released when the Director finds the completed project conforms to the approved site development plan and all conditions of approval are satisfied.
- C. Completion of landscape installation. Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the Director is filed with the City Recorder assuring such installation within six months after occupancy:

1. Security may consist of a faithful performance bond payable to the City, cash, certified check or such other assurance of completion approved by the City Attorney; and
 2. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.
- D. Business tax filing. The applicant shall ensure that all occupants of the completed project, whether permanent or temporary, shall apply for and receive a City of Tigard business tax prior to initiating business.

18.360.050 Major Modification(s) to Approved Plans or Existing Development

- A. Determination request. An applicant may request approval of a modification to an approved plan or existing development by:
1. Providing the Director with three copies of the proposed modified site development plan; and
 2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in subsection B below.
- B. Evaluation criteria. The Director shall determine that a major modification(s) will result if one or more of the following changes are proposed. There will be:
1. An increase in dwelling unit density, or lot coverage for residential development;
 2. A change in the ratio or number of different types of dwelling units;
 3. A change that requires additional on-site parking in accordance with Chapter 18.765;
 4. A change in the type of commercial or industrial structures as defined by the Uniform Building Code;
 5. An increase in the height of the building(s) by more than 20%;
 6. A change in the type and location of accessways and parking areas where off-site traffic would be affected;
 7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed 100 vehicles per day;
 8. An increase in the floor area proposed for a nonresidential use by more than 10% excluding expansions under 5,000 square feet;
 9. A reduction in the area reserved for common open space and/or usable open space which reduces the open space area below the minimum required by this code or reduces the open space area by more than 10%;
 10. A reduction of project amenities below the minimum established by this code or by more than 10% where specified in the site plan:
 - a. Recreational facilities;

- b. Screening; and/or
- c. Landscaping provisions.

11. A modification to the conditions imposed at the time of site development review approval which are not the subject of B1 through 10 above of this subsection.

- C. When the determination is made. Upon determining that the proposed modification to the site development plan is a major modification, the applicant shall submit a new application in accordance with Sections 18.360.030 and 18.360.070 for site development review prior to any issuance of building permits.

18.360.060 Minor Modification(s) to Approved Plans or Existing Development

- A. Minor modification defined. Any modification which is not within the description of a major modification as provided in Section 18.360.050 shall be considered a minor modification.
- B. Process. An applicant may request approval of a minor modification in accordance with Section 18.360.030B and as follows:
- 1. Providing the Director with three copies of the proposed modified site development plan; and
 - 2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in Section 18.360.050B.
- C. Approval criteria. A minor modification shall be approved, approved with conditions or denied following the Director's review based on the finding that:
- 1. The proposed development is in compliance with all applicable requirements of this title; and
 - 2. The modification is not a major modification.

18.360.070 Submission Requirements

- A. General submission requirements. The applicant shall submit an application containing all of the general information required for a Type II procedure, as governed by Section 18.390.040.
- B. Additional information. In addition to the submission requirements required in Chapter 18.390, Decision-Making Procedures, an application for the conceptual development plan must include the following additional information in graphic, tabular and/or narrative form. The Director shall provide a list of the specific information to be included in each of the following:
- 1. An existing site conditions analysis;
 - 2. A site plan;
 - 3. A grading plan;
 - 4. A landscape plan;

5. Architectural elevations of all structures; and
6. A copy of all existing and proposed restrictions or covenants.

18.360.080 Exceptions to Standards

- A. Exceptions to setback requirements. The Director may grant an exception to the yard setback requirements in the applicable zone based on findings that the approval will result in the following:
1. An exception which is not greater than 20% of the required setback;
 2. No adverse effect to adjoining properties in terms of light, noise levels and fire hazard;
 3. Safe vehicular and pedestrian access to the site and on-site;
 4. A more efficient use of the site which would result in more landscaping; and
 5. The preservation of natural features which have been incorporated into the overall design of the project.
- B. Exceptions to parking requirements. The Director may grant an exception or deduction to the off-street parking dimensional and minimum number of space requirements in the applicable zoning district based on the following findings:
1. The application is for a use designed for a specific purpose which is intended to be permanent in nature, e.g., senior citizen housing, and which has a demonstrated low demand for off-street parking;
 2. There is an opportunity for shared parking and there is written evidence that the property owners have entered into a binding agreement to share parking; or
 3. There is community interest in the preservation of particular natural feature(s) on the site, public transportation is available to the site, and reducing the standards will not adversely affect adjoining uses, therefore the public interest is not adversely affected by the granting of the exception.
- C. Exceptions for private or shared outdoor area. The Director may grant an exception or deduction to the private outdoor area and shared outdoor recreation areas requirements, provided the application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, senior citizen housing) and which can demonstrate a reduced demand for a private outdoor recreational area based on any one or more of the following findings:
1. There is direct access by a pedestrian path, not exceeding 1/4 mile, from the proposed development to public open space or recreation areas which may be used by residents of the development;
 2. The development operates a motor vehicle which is available on a regular basis to transport residents of the development to public open space or recreation areas; or
 3. The required square footage of either the private outdoor area or the shared outdoor recreation area may be reduced if together the two areas equal or exceed the combined standard for both.

- D. Exceptions to landscaping requirements. The Director shall grant an exception to the landscaping requirements of this code, Section 18.120.150, upon finding that the overall landscape plan provides for at least 20 of the gross site to be landscaped.

18.360.090 Approval Criteria

- A. Approval criteria. The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:

1. Compliance with all of the applicable requirements of this title including Chapter 18.810, Street and Utility Standards;
2. Relationship to the natural and physical environment:
 - a. Buildings shall be:
 - (1) Located to preserve existing trees, topography and natural drainage where possible based upon existing site conditions;
 - (2) Located in areas not subject to ground slumping or sliding;
 - (3) Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire-fighting; and
 - (4) Oriented with consideration for sun and wind.
 - b. Trees shall be preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal.
 - c. Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered based on surface water drainage patterns, identified per Section 18.810.100.A.3, and the City of Tigard "Significant Habitat Areas Map". Methods and techniques for consideration may include, but are not limited to, the following:
 - (1) Water quality facilities (for infiltration, retention, detention and/or treatment)
 - (2) Pervious pavement
 - (3) Soil amendment
 - (4) Roof runoff controls
 - (5) Fencing to guide animals toward safe passageways
 - (6) Re-directed outdoor lighting to reduce spill-off into habitat areas
 - (7) Preservation of existing vegetative and canopy cover
3. Exterior elevations:

- a. Along the vertical face of single-family attached and multiple-family structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:
 - (1) Recesses, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet;
 - (2) Extensions, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet, a maximum length of an overhang shall be 25 feet; and
 - (3) Offsets or breaks in roof elevations of three or more feet in height.
- 4. Buffering, screening and compatibility between adjoining uses:
 - a. Buffering shall be provided between different types of land uses, for example, between single-family and multiple-family residential, and residential and commercial uses, and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:
 - (1) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;
 - (2) The size of the buffer required to achieve the purpose in terms of width and height;
 - (3) The direction(s) from which buffering is needed;
 - (4) The required density of the buffering; and
 - (5) Whether the viewer is stationary or mobile.
 - b. On site screening from view from adjoining properties of such things as service areas, storage areas, parking lots, and mechanical devices on roof tops, i.e., air cooling and heating systems, shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:
 - (1) What needs to be screened;
 - (2) The direction from which it is needed;
 - (3) How dense the screen needs to be;
 - (4) Whether the viewer is stationary or mobile; and
 - (5) Whether the screening needs to be year around.
- 5. Privacy and noise: multi-family or group living uses:
 - a. Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units as provided in Subsection 6.a below;
 - b. The buildings shall be oriented in a manner which protects private spaces on adjoining properties from view and noise;

- c. On-site uses which create noise, light, or glare shall be buffered from adjoining residential uses; and
 - d. Buffers shall be placed on the site as necessary to mitigate noise, light or glare from off-site sources.
6. Private outdoor area: multi-family use:
- a. Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least 48 square feet in size with a minimum width dimension of four feet; and
 - (1) Balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit; and
 - (2) Required open space may include roofed or enclosed structures such as a recreation center or covered picnic area.
 - b. Wherever possible, private outdoor open spaces should be oriented toward the sun; and
 - c. Private outdoor spaces shall be screened or designed to provide privacy for the users of the space.
7. Shared outdoor recreation areas: multi-family use:
- a. In addition to the requirements of subsections 5 and 6 above, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts:
 - (1) Studio up to and including two-bedroom units, 200 square feet per unit; and
 - (2) Three or more bedroom units, 300 square feet per unit.
 - b. The required recreation space may be provided as follows:
 - (1) It may be all outdoor space; or
 - (2) It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room; or
 - (3) It may be all public or common space; or
 - (4) It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit; and
 - (5) Where balconies are added to units, the balconies shall not be less than 48 square feet.
 - c. Shared outdoor recreation space shall be readily observable to promote crime prevention and safety;

8. Where landfill and/or development is allowed within and adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/ bicycle plan.
9. Demarcation of public, semi-public and private spaces for crime prevention:
 - a. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas and private outdoor areas are clearly defined to establish persons having a right to be in the space, to provide for crime prevention and to establish maintenance responsibility; and
 - b. These areas may be defined by, but not limited to:
 - (1) A deck, patio, low wall, hedge, or draping vine;
 - (2) A trellis or arbor;
 - (3) A change in elevation or grade;
 - (4) A change in the texture of the path material;
 - (5) Sign; or
 - (6) Landscaping.
10. Crime prevention and safety:
 - a. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants;
 - b. Interior laundry and service areas shall be located in a way that they can be observed by others;
 - c. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic;
 - d. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and
 - e. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person.
11. Public transit:
 - a. Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to or within 500 feet of existing or proposed transit route;
 - b. The requirements for transit facilities shall be based on:

- (1) The location of other transit facilities in the area; and
 - (2) The size and type of the proposal.
- c. The following facilities may be required after City and Tri-Met review:
 - (1) Bus stop shelters;
 - (2) Turnouts for buses; and
 - (3) Connecting paths to the shelters.
12. Landscaping:
 - a. All landscaping shall be designed in accordance with the requirements set forth in Chapter 18.745;
 - b. In addition to the open space and recreation area requirements of subsections 5 and 6 above, a minimum of 20 percent of the gross area including parking, loading and service areas shall be landscaped; and
 - c. A minimum of 15 percent of the gross site area shall be landscaped.
13. Drainage: All drainage plans shall be designed in accordance with the criteria in the adopted 1981 master drainage plan;
14. Provision for the disabled: All facilities for the disabled shall be designed in accordance with the requirements set forth in ORS Chapter 447; and
15. All of the provisions and regulations of the underlying zone shall apply unless modified by other sections or this title, e.g., Planned Developments, Chapter 18.350; or a variance or adjustment granted under Chapter 18.370. (Ord. 02-33)

Chapter 18.370
VARIANCES AND ADJUSTMENTS

Sections:

- 18.370.010 Variances**
18.370.020 Adjustments
- 18.370.010 Variances**

- A. Purpose. The purpose of this section is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific property, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.
- B. Applicability of provisions.
1. The variance standards are intended to apply to individual platted and recorded lots only.
 2. An applicant who is proposing to vary a specification standard for lots yet to be created through a subdivision process may not utilize the variance procedure unless otherwise specified in Section 18.730.030, Zero Lot Line Setback Standards, or Chapter 18.430, Subdivisions.
- C. Approval process and standards.
1. Variances shall be processed by means of a Type II procedure, as governed by Section 18.390.040, using standards of approval contained in Subsection 2 below.
 2. The Director shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this title, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;
 - b. There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
 - c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
 - d. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected any more than would occur if the development were developed as specified in the title; and
 - e. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

3. The Director shall approve, approve with modifications, or deny an application for a subdivision variance subject to the criteria set forth in Section 18.370.010.C.

18.370.020 Adjustments

A. Purpose. The purpose of this section is to establish two classes of special variances:

1. "Development adjustments" which allow modest variation from required development standards within proscribed limits. Because such adjustments are granted using "clear and objective standards," these can be granted by means of a Type I procedure, as opposed to the more stringent standards of approval and procedure for variances.
2. "Special adjustments" which are variances from development standards which have their own approval criteria as opposed to the standard approval criteria for variances contained in Section 18.370.020.C.

B. Development adjustments.

1. The following development adjustments will be granted by means of a Type I procedure, as governed by Section 18.390.030, using approval criteria contained in Subsection B2 below:
 - a. Front yard setbacks. Up to a 25% reduction of the dimensional standards for the front yard setback required in the base zone. Setback of garages may not be reduced by this provision.
 - b. Interior setbacks. Up to a 20% reduction of the dimensional standards for the side and rear yard setbacks required in the base zone.
 - c. Lot coverage. Up to 5% increase of the maximum lot coverage required in the base zone.
2. Approval criteria. A development adjustment shall be granted if there is a demonstration of compliance with all of the applicable standards:
 - a. A demonstration that the adjustment requested is the least required to achieve the desired effect;
 - b. The adjustment will result in the preservation of trees, if trees are present in the development area;
 - c. The adjustment will not impede adequate emergency access to the site;
 - d. There is not a reasonable alternative to the adjustment which achieves the desired effect.

C. Special adjustments.

1. Adjustments to development standards within subdivisions (Chapter 18.430). The Director shall consider the application for adjustment at the same time he/she considers the preliminary plat. An adjustment may be approved, approved with conditions, or denied provided the Director finds:
 - a. There are special circumstances or conditions affecting the property which are unusual and peculiar to the land as compared to other lands similarly situated;
 - b. The adjustment is necessary for the proper design or function of the subdivision;
 - c. The granting of the adjustment will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property; and
 - d. The adjustment is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this title.
2. Adjustment to minimum residential density requirements (Chapter 18.510). The Director is authorized to grant an adjustment to the minimum residential density requirements in Section 18.510.040, by means of a Type I procedure, as governed by Section 18.390.030 as follows:
 - a. For development on an infill site as follows:
 - (1) In the R-25 zone, sites of .75 acre or smaller.
 - (2) In the R-40 zone, sites of .75 acre or smaller.
 - b. For development on sites larger than those contained in 1 above, if the applicant can demonstrate by means of detailed site plan that the site is so constrained that the proportional share of the required minimum density cannot be provided and still meet all of the development standards in the underlying zone.
 - c. To be granted an adjustment in either Subsections a or b above, the applicant must demonstrate that the maximum number of residential units are being provided while complying with all applicable development standards in the underlying zone. There is nothing in this section which precludes an applicant for applying to a variance to these standards, as governed by Section 18.370.010.
3. For adjustments to density requirements in Washington Square Regional Center, the standards of Section 18.630.020.E apply.
4. For Modifications to dimensional and minimum density requirements for developments within the Washington Square Regional Center that include or abut designated Water Resource overlay areas, the standards of Section 18.630.020.F apply.

5. Adjustment to access and egress standards (Chapter 18.705).
 - a. In all zoning districts where access and egress drives cannot be readily designed to conform to Code standards within a particular parcel, access with an adjoining property shall be considered. If access in conjunction with another parcel cannot reasonably be achieved, the Director may grant an adjustment to the access requirements of Chapter 18.705 through a Type II procedure, as governed in Section 18.390.030, using approval criteria contained in Subsection 2b below.
 - b. The Director may approve, approve with conditions, or deny a request for an adjustment from the access requirements contained in Chapter 18.705, based on the following criteria:
 - (1) It is not possible to share access;
 - (2) There are no other alternative access points on the street in question or from another street;
 - (3) The access separation requirements cannot be met;
 - (4) The request is the minimum adjustment required to provide adequate access;
 - (5) The approved access or access approved with conditions will result in a safe access; and
 - (6) The visual clearance requirements of Chapter 18.795 will be met.
6. Adjustments to landscaping requirements (Chapter 18.745).
 - a. Adjustment to use of existing trees as street trees. By means of a Type I procedure, as governed by Section 18.390.030, the Director shall approve, approve with conditions, or deny a request for the use of existing trees to meet the street tree requirements in Section 18.745.030 providing there has been no cutting and filling around the tree during construction which may lead to its loss, unless the following can be demonstrated:
 - (1) The ground within the drip-line is altered merely for drainage purposes; and
 - (2) It can be shown that the cut or fill will not damage the roots and will not cause the tree to die.
 - b. Adjustment for street tree requirements. By means of a Type I procedure, as governed by Section 18.390.030, the Director shall approve, approve with conditions, or deny a request for the adjustments to the street tree requirements in Section 18.745.030, based on the following approval criteria:
 - (1) If the location of a proposed tree would cause potential problems with existing utility lines;
 - (2) If the tree would cause visual clearance problems; or
 - (3) If there is not adequate space in which to plant street trees.
7. Adjustments to parking standards (Chapter 18.765).

- a. Reduction from minimum parking requirements. By means of a Type II procedure, as governed by Section 18.390.040, the Director may authorize up to a 20% reduction in the total minimum vehicle parking spaces required in Section 18.765.070.H when an applicant for a development permit can demonstrate in a parking study prepared by a traffic consultant or in parking data from comparable sites that:
 - (1) Use of transit, demand management programs, and/or special characteristics of the customer, client employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to standards Institute of Transportation Engineers (ITE) vehicle trip generation rates and minimum city parking requirements, and
 - (2) A reduction in parking will not have an adverse impact on adjacent uses.
- b. Reductions in minimum parking requirements in new developments for transit improvements. The Director may authorize up to a 20% reduction in the total minimum vehicle parking spaces required in Section 18.765.070.H by means of a Type II procedure, as governed by Section 18.390.040, when the applicant:
 - (1) Incorporates transit-related facilities such as bus stops and pull-outs, bus shelters, transit-oriented developments and other transit-related development; and
 - (2) Documents operational characteristics indicating the number of transit users, or number of non-auto users for a particular facility.
- c. Reductions in minimum parking requirements in existing developments for transit improvements. The Director may authorize up to a 10% reduction in the total minimum vehicle parking spaces required in Section 18.765.070.H at a conversion ratio of one space per 100 square feet of transit facility by means of a Type I procedure as governed by Section 18.390.030, when the applicant:
 - (1) Incorporates transit-related facilities such as bus stops and pull-outs, bus shelters, transit-oriented developments and other transit-related development; and
 - (2) Meets the following requirements:
 - (a) A transit facility must be located adjacent to a street with transit service. The facility should be located between the building and front property line, within 20 feet of an existing transit stop, or the facility may include a new transit stop if approved by Tri-Met.
 - (b) A transit facility shall include a covered waiting or sitting area.
- d. Increases in the maximum parking requirements. The Director may approve off-street parking in excess of the maximum allowed parking spaces in Section 18.765.070G by means of a Type II procedure, as governed by Section 18.390.040, when the applicant can demonstrate that all of the following criteria are met:
 - (1) The individual characteristics of the use at that location requires more parking than is generally required for a use of this type and intensity;

- (2) The need for additional parking cannot be reasonably met through provision of on-street parking or shared parking with adjacent or nearby uses; and
 - (3) The site plan shall indicate how the additional parking can be redeveloped to more intensive transit-supportive use in the future.
 - e. Reduction in required bicycle parking. The Director may approve a reduction of required bicycle parking per Section 18.765.050.E by means of Type II procedure, as governed by Section 18.390.040, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
 - f. Use of alternative parking garage layout. By means of a Type II procedure, as governed by Section 18.390.040, the Director may approve an alternative design of parking garage which differs from the dimensional standards contained in Figure 18.765.2 when it can be shown that 1) the proposed structure meets design guidelines of the Urban Land Institute's (ULI) Dimension of Parking, Current Edition; or 2) a similar structure functions efficiently using proposed modified layout, circulation and dimensions.
 - g. Reduction in length of stacking lane. By means of a Type I procedure, as governed by 18.390.030, the Director may allow a reduction in the amount of vehicle stacking area required in Section 18.765.040.D.2 if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
8. Adjustments to sign code (Chapter 18.780).
- a. By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the sign code based on findings that at least one of the following criteria are satisfied:
 - (1) The proposed adjustment to the height limits in the sign code is necessary to make the sign visible from the street because of the topography of the site, and/or a conforming building or sign on an adjacent property would limit the view of a sign erected on the site in conformance with Chapter 18.780, Signs;
 - (2) A second freestanding sign is necessary to adequately identify a second entrance to a business or premises that is oriented towards a different street frontage;
 - (3) Up to an additional 25% of sign area or height may be permitted when it is determined that the increase will not deter from the purpose of Chapter 18.780, Signs. This increase should be judged according to specific needs and circumstances which necessitate additional area to make the sign sufficiently legible. The increase(s) shall not conflict with any other non-dimensional standards or restrictions of this chapter;
 - (4) The proposed sign is consistent with the criteria set forth in Section 18.780.130.G;
 - (5) The proposed exception for a second freestanding sign on an interior lot which is zoned commercial or industrial is appropriate because all of the following apply:

- (a) The combined height of both signs shall not exceed 150% of the sign height normally allowed for one freestanding sign in the same zoning district; however, neither shall exceed the height normally allowed in the same zoning district;
 - (b) Neither sign will pose a vision clearance problem or will project into the public right-of-way; and
 - (c) Total combined sign area for both signs shall not exceed 150% of what is normally allowed for one freestanding sign in the same zoning district; however, neither shall exceed the height normally allowed in the same zoning district.
 - b. In addition to the criteria in Subsection a above, the Director shall review all of the existing or proposed signage for the development and its relationship to the intent and purpose of Chapter 18.780, Signs. As a condition of approval of the adjustment, the Director may require:
 - (1) Removal or alteration of nonconforming signs to achieve compliance with the standards contained in Chapter 18.780, Signs;
 - (2) Removal or alteration of conforming signs to establish a consistent sign design throughout the development; and
 - (3) Application for sign permits for signs erected without permits or removal of such illegal signs.
9. Adjustments to setbacks to reduce tree removal (Chapter 18.790). By means of a Type I procedure, as governed by Section 18.390.030, the Director may grant a modification from applicable setback requirements of this Code for the purpose of preserving a tree or trees on the site of proposed development. Such modification may reduce the required setback by up to 50%, but shall not be more than is necessary for the preservation of trees on the site. The setback modification described in this section shall supersede any special setback requirements or exceptions set out elsewhere in this title, including but not limited to Chapter 18.730, except Section 18.730.040.
10. Adjustments to wireless communication facilities (Chapter 18.798).
- a. By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the requirement that a wireless communication tower be set back at least the height of the tower from any off-site residence based on findings that at the following criteria are satisfied:
 - (1) The proposed location of the tower complies with the setback requirements for the underlying zone in which the property is located;
 - (2) A structural engineer certifies that the tower is designed to collapse within itself;
 - (3) Because of topography, vegetation, building orientation and/or other factor, a site closer to an off-site residence will equally or better reduce the visual impacts associated with the tower upon the off-site residence.

- b. By means of a Type I procedure, as governed by Section 18.390.030, the Director shall approve, approve with conditions, or deny a request for an adjustment to the requirement that a wireless communication tower be located 2,000 feet from another tower in a residential zone or 500 feet from another tower in a non-residential zone based on findings that the following criteria are satisfied:
 - (1) The applicant has fully complied with the collocation protocol as provided in Section 18.798.080; and
 - (2) A registered radio engineer certifies that a more distant location is not technically feasible and/or sites at a more appropriate location are not available; or
 - (3) A location closer than the required separation will reduce visual or other impacts on surrounding uses better than sites beyond the required separation.
- 11. Adjustments for street improvement requirements (Chapter 18.810). By means of a Type II procedure, as governed by Section 18.390.040, the Director shall approve, approve with conditions, or deny a request for an adjustment to the street improvement requirements, based on findings that the following criterion is satisfied: Strict application of the standards will result in an unacceptably adverse impact on existing development, on the proposed development, or on natural features such as wetlands, bodies of water, significant habitat areas, steep slopes or existing mature trees. In approving an adjustment to the standards, the Director shall determine that the potential adverse impacts exceed the public benefits of strict application of the standards.■

Chapter 18.705
ACCESS, EGRESS, AND CIRCULATION

Sections:

- 18.705.010 Purpose**
- 18.705.020 Applicability of Provisions**
- 18.705.030 General Provisions**

18.705.010 Purpose

- A. Purpose. The purpose of this chapter is to establish standards and regulations for safe and efficient vehicle access and egress on a site and for general circulation within the site.

18.705.020 Applicability of Provisions

- A. When provisions apply. The provisions of this chapter shall apply to all development including the construction of new structures, the remodeling of existing structures (see Section 18.360.050), and to a change of use which increases the on-site parking or loading requirements or which changes the access requirements.
- B. Change or enlargement of use. Should the owner or occupant of a lot or building change or enlarge the use to which the lot or building is put, thereby increasing access and egress requirements, it is unlawful and is a violation of this title to begin or maintain such altered use until the provisions of this chapter have been met if required or until the appropriate approval authority has approved the change.
- C. When site design review is not required. Where the provisions of Chapter 18.360, Site Development Review, do not apply, the Director shall approve, approve with conditions, or deny an access plan submitted under the provisions of this chapter in conjunction with another permit or land use action.
- D. Conflict with subdivision requirements. The requirements and standards of this chapter shall not apply where they conflict with the subdivision rules and standards of this title.

18.705.030 General Provisions

- A. Continuing obligation of property owner. The provisions and maintenance of access and egress stipulated in this title are continuing requirements for the use of any structure or parcel of real property in the City.
- B. Access plan requirements. No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan. The Director shall provide the applicant with detailed information about this submission requirement.
- C. Joint access. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided:

1. Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and
 2. Copies of the deeds, easements, leases or contracts are placed on permanent file with the City.
- D. Public street access. All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.
- E. Curb cuts. Curb cuts shall be in accordance with Section 18.810.030N.
- F. Required walkway location. On-site pedestrian walkways shall comply with the following standards:
1. Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;
 2. Within all attached housing (except two-family dwellings) and multi-family developments, each residential dwelling shall be connected by walkway to the vehicular parking area, and common open space and recreation facilities;
 3. Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;
 4. Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, other pervious paving surfaces, etc. Any pervious paving surface must be designed and maintained to remain well-drained. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.
- G. Inadequate or hazardous access.
1. Applications for building permits shall be referred to the Commission for review when, in the opinion of the Director, the access proposed:
 - a. Would cause or increase existing hazardous traffic conditions; or

- b. Would provide inadequate access for emergency vehicles; or
 - c. Would in any other way cause hazardous conditions to exist which would constitute a clear and present danger to the public health, safety, and general welfare.
- 2. Direct individual access to arterial or collector streets from single-family dwellings and duplex lots shall be discouraged. Direct access to collector or arterial streets shall be considered only if there is no practical alternative way to access the site. If direct access is permitted by the City, the applicant will be required to mitigate for any safety or neighborhood traffic management (NTM) impacts deemed applicable by the City Engineer. This may include, but will not be limited to, the construction of a vehicle turnaround on the site to eliminate the need for a vehicle to back out onto the roadway.
 - 3. In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley. Single-family and duplex dwellings are exempt from this requirement.
- H. Access Management
- 1. An access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO (depending on jurisdiction of facility.)
 - 2. Driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.
 - 3. The minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet.
 - 4. The minimum spacing of local streets along a local street shall be 125 feet.
- I. Minimum access requirements for residential use.
- 1. Vehicular access and egress for single-family, duplex or attached single-family dwelling units on individual lots and multi-family residential uses shall not be less than as provided in Table 18.705.1 and Table 18.705.2;

TABLE 18.705.1
VEHICULAR ACCESS/EGRESS REQUIREMENTS:
RESIDENTIAL USE (6 OR FEWER UNITS)

Number Dwelling Unit/Lots	Minimum Number of Driveways Required	Minimum Access Width	Minimum Pavement Width
1 or 2	1	15'	10'
3-6	1	20'	20'

TABLE 18.705.2
VEHICULAR ACCESS/EGRESS REQUIREMENTS:
MULTI-FAMILY RESIDENTIAL USE

Dwelling Units	Minimum Number of Driveways Required	Minimum Access Required	Minimum Pavement Sidewalks, Etc.
1-2	1	15'	10'
3-19	1	30'	24' if two-way, 15' if one-way: Curbs and 5' walkway required
20-49	1 or 2	30' 30'	24' if two-way 15' if one-way: Curbs and 5' walkway required
50-100	2	30'	24' Curbs and 5' walkway required

2. Vehicular access to multi-family structures shall be brought to within 50 feet of the ground floor entrance or the ground floor landing of a stairway, ramp, or elevator leading to the dwelling units;
3. Private residential access drives shall be provided and maintained in accordance with the provisions of the Uniform Fire Code;
4. Access drives in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus by one of the following:
 - a. A circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet;
 - b. A hammerhead-configured, paved surface with each leg of the hammerhead having a minimum depth of 40 feet and a minimum width of 20 feet;
 - c. The maximum cross slope of a required turnaround is 5%.
5. Vehicle turnouts, (providing a minimum total driveway width of 24 feet for a distance of at least 30 feet), may be required so as to reduce the need for excessive vehicular backing motions in situations where two vehicles traveling in opposite directions meet on driveways in excess of 200 feet in length;
6. Where permitted, minimum width for driveway approaches to arterials or collector streets shall be no less than 20 feet so as to avoid traffic turning from the street having to wait for traffic exiting the site.

J. Minimum access requirements for commercial and industrial use.

1. Vehicle access, egress and circulation for commercial and industrial use shall not be less than 21 as provided in Table 18.705.3;

TABLE 18.705.3
VEHICULAR ACCESS/EGRESS REQUIREMENTS:
COMMERCIAL AND INDUSTRIAL USES

Required Parking Spaces	Minimum Number of Driveways Required	Minimum Access Width	Minimum Pavement
0-99	1	30'	24' curbs required
100+	2	30'	24' curbs required
	or 1	50'	40' curbs required

2. Vehicular access shall be provided to commercial or industrial uses, and shall be located to within 50 feet of the primary ground floor entrances;
 3. Additional requirements for truck traffic may be placed as conditions of site development review.
- K. One-way vehicular access points. Where a proposed parking facility indicates only one-way traffic flow on the site, it shall be accommodated by a specific driveway serving the facility; the entrance drive shall be situated closest to oncoming traffic and the exit drive shall be situated farthest from oncoming traffic.
- L. Director's authority to restrict access. The Director has the authority to restrict access when the need to do so is dictated by one or more of the following conditions:
1. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the Director may restrict the location of driveways on streets and require the location of driveways be placed on adjacent streets, upon the finding that the proposed access would:
 - a. Cause or increase existing hazardous traffic conditions; or
 - b. Provide inadequate access for emergency vehicles; or
 - c. Cause hazardous conditions to exist which would constitute a clear and present danger to the public health, safety, and general welfare.
 2. To eliminate the need to use public streets for movements between commercial or industrial properties, parking areas shall be designed to connect with parking areas on adjacent properties unless not feasible. The Director shall require access easements between properties where necessary to provide for parking area connections;
 3. To facilitate pedestrian and bicycle traffic, access and parking area plans shall provide efficient sidewalk and/or pathway connections, as feasible, between neighboring developments or land uses;
 4. A decision by the Director per 18.705.030 K.1.-3. above may be appealed by means of a Type II procedure, as regulated by Section 18.390.040, using criteria contained in Section 18.370.020 C3. (Ord. 02-33)

Chapter 18.715
DENSITY COMPUTATIONS

Sections:

- 18.715.010 Purpose**
- 18.715.020 Density Calculation**
- 18.715.030 Residential Density Transfer**

18.715.010 Purpose

- A. Purpose. The purpose of this chapter is to implement the comprehensive plan by establishing the criteria for determining the number of dwelling units permitted.

18.715.020 Density Calculation

- A. Definition of net development area. Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:
1. All sensitive land areas:
 - a. Land within the 100-year floodplain;
 - b. Land or slopes exceeding 25%;
 - c. Drainage ways; and
 - d. Wetlands.
 - e. Optional: Significant habitat areas, as designated on the City of Tigard "Significant Habitat Areas Map".
 2. All land dedicated to the public for park purposes;
 3. All land dedicated for public rights-of-way. When actual information is not available, the following formulas may be used:
 - a. Single-family development: allocate 20% of gross acreage;
 - b. Multi-family development: allocate 15% of gross acreage.
 4. All land proposed for private streets; and
 5. A lot of at least the size required by the applicable base zoning district, if an existing dwelling is to remain on the site.
- B. Calculating maximum number of residential units. To calculate the maximum number of residential units per net acre, divide the number of square feet in the net acres by the minimum number of square feet required for each lot in the applicable zoning district.

- C. Calculating minimum number of residential units. As required by Section 18.510.040, the minimum number of residential units per net acre shall be calculated by multiplying the maximum number of units determined in Subsection B above by 80% (0.8).

18.715.030 Residential Density Transfer

A. Rules governing residential density transfer.

1. The units per acre calculated by subtracting land areas listed in Section 18.715.020 A. 1a – c, from the gross acres may be transferred to the remaining buildable land areas subject to the following limitations:

1. a. The number of units which can be transferred is limited to the number of units which would have been allowed on 25 percent of the unbuildable area if not for these regulations; and
2. b. The total number of units per site does not exceed 125 percent of the maximum number of units per gross acre permitted for the applicable comprehensive plan designation.

~~B. 2.~~ Additional rules governing residential density transfer Wetlands. Units per acre calculated by subtracting land areas listed in Section 18.715.0320 A. 1d. from the gross acres may be transferred to the remaining buildable land areas on land zoned R-12, R-25, and R-40 subject to the following limitations:

1. a. The number of units which can be transferred is limited to the number of units which would have been allowed on the wetland area, if not for these regulations;
2. b. The total number of units per site does not exceed the maximum number of units per gross acre permitted for the applicable comprehensive plan designation.

~~CB.~~ Underlying development standards. All density transfer development proposals shall comply with the development standards of the applicable underlying zoning district unless developed under the provisions of Chapter 18.440, Planned Development. ■

Chapter 18.765
OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

18.765.010	Purpose
18.765.020	Applicability of Provisions
18.765.030	General Provisions
18.765.040	General Design Standards
18.765.050	Bicycle Parking Design Standards
18.765.060	Parking Structure Design Standards
18.765.070	Minimum and Maximum Off-Street Parking Requirements
18.765.080	Off-Street Loading Requirements

18.765.010 Purpose

- A. Insure adequate vehicle parking. These parking requirements are intended to provide sufficient vehicle parking in close proximity to the various uses for residents, customers and employees, and to establish standards which will maintain the traffic carrying-capacity of nearby streets.
- B. Adequate capacity. These regulations are also intended to establish vehicle parking areas which have adequate capacity and which are appropriately located and designed to minimize any hazardous conditions on the site and at access points.

18.765.020 Applicability of Provisions

- A. New construction. At the time of the erection of a new structure within any zoning district, off-street vehicle parking will be provided in accordance with Section 18.765.070.
- B. Expansion of existing use. At the time of an enlargement of a structure which increases the on-site vehicle parking requirements, off-street vehicle parking will be provided in accordance with Section 18.765.070 subject to the following:
 - 1. On the date of adoption of this title, the number of vehicle parking and loading spaces required shall be based only on floor area or capacity of such enlargement;
 - 2. If the minimum vehicle parking spaces required for the enlargement added to the existing on-site space exceed the maximum number of vehicle parking spaces allowed for the whole project per the maximum parking ratios established in 18.765.070, the applicant may reduce the additional number of spaces provided so that the total spaces on the site do not exceed the maximum spaces allowed.
- C. Change of use. When an existing structure is changed from one use to another use as listed in Section 18.765.070, the following provisions shall apply:
 - 1. If the parking requirements for each use are the same, no additional vehicle parking shall be required;
 - 2. Where a change results in an intensification of use in terms of the number of vehicle parking spaces required, additional vehicle parking spaces shall be provided in an amount equal to the

difference between the number of spaces required for the existing use and the number of spaces required for the more intensive use;

3. Where the change results in a decrease in intensity of use, the applicant may eliminate excess vehicle parking spaces in an amount equal to the difference between the number of spaces required for the existing use and the number of spaces required for the less intensive use.
- D. When site design review is not required. Where the provisions of Chapter 18.360, Site Development Review, do not apply, the Director shall approve, approve with conditions, or deny a plan submitted under the provisions of this chapter by means of a Type I review, as governed by Section 18.390.030.
- E. Building permit conditions. The provision and maintenance of off-street vehicle parking and loading spaces are the continuing obligation of the property owner:
1. No building or other permit shall be issued until plans are presented to the Director to show that property is and will remain available for exclusive use as off-street vehicle parking and loading space; and
 2. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of vehicle parking and loading space required by this title;
 3. Required vehicle parking shall:
 - a. Be available for the parking of operable passenger vehicles of residents, patron and employees only;
 - b. Not be used for storage of vehicles or materials or for the parking of trucks used in conduct of the business or use; and
 - c. Not be rented, leased or assigned to any other person or organization.

18.765.030 General Provisions

- A. Vehicle parking plan requirements. No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan. The Director shall provide the applicant with detailed information about this submission requirement.
- B. Location of vehicle parking. The location of off-street parking will be as follows:
1. Off-street parking spaces for single-family and duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwelling(s);
 2. Off-street parking lots for uses not listed above shall be located not further than 500 feet from the property line that they are required to serve, measured along the most direct, publicly accessible pedestrian route from the property line with the following exceptions:

- a. Commercial and industrial uses which require more than 40 parking spaces may provide for the spaces in excess of the required first 40 spaces up to a distance of 500 feet from the primary site;
 - b. The 40 parking spaces which remain on the primary site must be available for users in the following order of priority:
 - 1) Disabled-accessible spaces;
 - 2) Short-term spaces;
 - 3) Long-term preferential carpool and vanpool spaces;
 - 4) Long-term spaces.
- C. Joint parking. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the peak hours of operation do not overlay, subject to the following:
 - 1. The size of the joint parking facility shall be at least as large as the number of vehicle parking spaces required by the larger(est) use per Section 18.765.070;
 - 2. Satisfactory legal evidence shall be presented to the Director in the form of deeds, leases or contracts to establish the joint use;
 - 3. If a joint use arrangement is subsequently terminated, or if the uses change, the requirements of this title thereafter apply to each separately.
- D. Parking in mixed-use projects. In mixed-use projects, the required minimum vehicle parking shall be determined using the following formula.
 - 1. Primary use, i.e., that with the largest proportion of total floor area within the development, at 100% of the minimum vehicle parking required for that use in Section 18.765.060;
 - 2. Secondary use, i.e., that with the second largest percentage of total floor area within the development, at 90% of the vehicle parking required for that use in Section 18.765.060;
 - 3. Subsequent use or uses, at 80% of the vehicle parking required for that use(s) in Section 18.765.060;
 - 4. The maximum parking allowance shall be 150% of the total minimum parking as calculated in D.1.-3. above.
- E. Visitor parking in multi-family residential developments. Multi-dwelling units with more than 10 required parking spaces shall provide an additional 15% of vehicle parking spaces above the minimum required for the use of guests of residents of the complex. These spaces shall be centrally located or distributed throughout the development. Required bicycle parking facilities shall also be centrally located within or evenly distributed throughout the development.
- F. Preferential long-term carpool/vanpool parking. Parking lots providing in excess of 20 long-term parking spaces shall provide preferential long-term carpool and vanpool parking for employees,

students and other regular visitors to the site. At least 5% of total long-term parking spaces shall be reserved for carpool/vanpool use. Preferential parking for carpools/vanpools shall be closer to the main entrances of the building than any other employee or student parking except parking spaces designated for use by the disabled. Preferential carpool/vanpool spaces shall be full-sized per requirements in Section 18.765.040.N and shall be clearly designated for use only by carpools and vanpools between 7:00 AM and 5:30 PM Monday through Friday.

- G. Disabled-accessible parking. All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the State of Oregon Uniform Building Code and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.
- H. DEQ indirect source construction permit. All parking lots containing 250 spaces or parking structures containing two or more levels shall require review by the Oregon Department of Environmental Quality (DEQ) to:
 - 1. Acquire an Indirect Source Construction Permit;
 - 2. Investigate the feasibility of installing oil and grease separators. (Ord. 02-13)

18.765.040 General Design Standards

- A. Maintenance of parking areas. All parking lots shall be kept clean and in good repair at all times. Breaks in paved surfaces shall be repaired promptly and broken or splintered wheel stops shall be replaced so that their function will not be impaired.
- B. Access drives. With regard to access to public streets from off-street parking:
 - 1. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site;
 - 2. The number and size of access drives shall be in accordance with the requirements of Chapter, 18.705, Access, Egress and Circulation;
 - 3. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives;
 - 4. Access drives shall have a minimum vision clearance in accordance with Chapter 18.795, Visual Clearance;
 - 5. Access drives shall be improved with an asphalt, ~~or concrete,~~ or pervious paving surface. Any pervious paving surface must be designed and maintained to remain well-drained; and
 - 6. Excluding single-family and duplex residences, except as provided by Subsection 18.810.030P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.
- C. Loading/unloading driveways. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school or other meeting place which is designed to accommodate more than 25 people at one time.

D. On-site vehicle stacking for drive-in use.

1. All uses providing drive-in services as defined by this title shall provide on the same site a stacking lane for inbound vehicles as noted in Table 18.765.1.

TABLE 18.765.1
STACKING LANE REQUIREMENTS FOR USES WITH DRIVE-IN WINDOWS

Use	Reservoir Requirement
Drive-in banks	150 feet/service terminal
Automated teller	50 feet/service terminal machines
Drive-up telephones	50 feet
Drive-in cleaners, repair services	50 feet
Drive-in restaurants	200 feet
Drive-in theaters	200 feet
Gasoline service	75 feet between curb cut and nearest pump
Mechanical car washes	75 feet/washing unit
Parking facilities:	
- Free flow entry	25 feet/entry driveway
- Ticket dispense entry	50 feet/entry driveway
- Manual ticket dispensing	100 feet/entry driveway
- Attendant parking	100 feet

2. The Director may reduce the length of the inbound stacking lane by means of a adjustment to be reviewed through a Type I procedure, as governed by Section 18.320.300, using approval criteria contained in Section 18.370.020.C.5.g.
3. Stacking lanes must be designed so that they do not interfere with parking and vehicle, pedestrian and bicycle circulation. Stacking lanes for the purpose of selling food must provide at least one clearly marked parking space per service window for the use of vehicles waiting for an order to be filled.

E. Curb cuts. Curb cuts shall be in accordance with Section 18.810.030.N.

F. Pedestrian access. Pedestrian access through parking lots shall be provided in accordance with Section 18.705.030.F. Where a parking area or other vehicle area has a drop-off grade separation, the property owner shall install a wall, railing, or other barrier which will prevent a slow-moving vehicle or driverless vehicle from escaping such area and which will prevent pedestrians from walking over drop-off edges.

G. Parking lot landscaping. Parking lots shall be landscaped in accordance with the requirements of Chapter 18.745.

H. Parking space surfacing.

1. Except for single-family and duplex residences, and for temporary uses or fleet storage areas as authorized in 18.765.040.H.3 and 4 below, all areas used for the parking or storage or maneuvering of any vehicle, boat or trailer shall be improved with asphalt, ~~or~~ concrete, or pervious paving surfaces; Any pervious paving surface must be designed and maintained to remain well-drained;
2. Off-street parking spaces for single and two-family residences shall be improved with an asphalt, ~~or~~ concrete, or pervious paving surface; Any pervious paving surface must be designed and maintained to remain well-drained;
3. Parking areas to be used primarily for the storage of fleet vehicles or construction equipment may be surfaced in gravel when authorized by the approval authority at the time the site development approval is given. The Director may require that the property owner enter into an agreement to pave the parking area: a) within a specified period of time after establishment of the parking area; or b) if there is a change in the types or weights of vehicles utilizing the parking area; or c) if there is evidence of adverse effects upon adjacent roadways, water courses, or properties. Such an agreement shall be executed as a condition of approval of the plan to establish the gravel parking area. Gravel-surfaced parking areas may only be permitted consistent with the following:
 - a. Gravel parking areas shall not be permitted within 100 feet of any residentially-zoned or residentially-developed area;
 - b. Gravel access and/or parking areas shall not be allowed within 100 feet of any water course;
 - c. Gravel parking areas shall not be allowed within 100 feet of any public right-of-way; and
 - d. A driveway which connects a gravel parking area with any public street shall be paved.
4. Parking areas to be used in conjunction with a temporary use may be surfaced in gravel when authorized by the approval authority at the time the permit is approved. The approval authority shall consider the following in determining whether or not the gravel-surfaced parking is warranted:
 - a. The request for consideration to allow a parking area in conjunction with the temporary use shall be made in writing concurrently with the Temporary Use application per the requirements of Section 18.385.050;
 - b. The applicant shall provide documentation that the type of temporary use requested will not be financially viable if the parking space surface area requirement is imposed; and
 - c. Approval of the gravel-surfaced parking area will not create adverse conditions affecting safe ingress and egress when combined with other uses of the property.

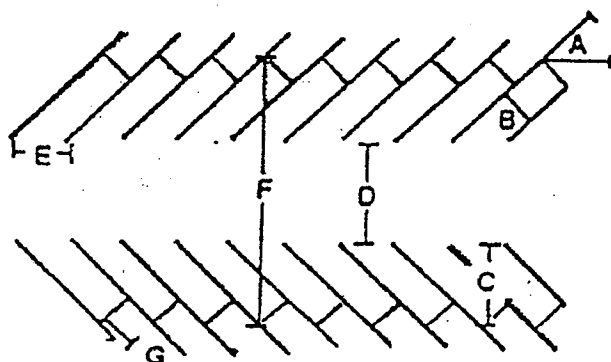
I. Parking lot striping.

1. Except for single-family and duplex residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked; and
 2. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.
- J. Wheel stops. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.
- K. Drainage. Off-street parking and loading areas shall be drained in accordance with specifications approved by the City Engineer to ensure that ponds do not occur except for single-family and duplex residences, off-street parking and loading facilities shall be drained to avoid flow of water across public sidewalks.
- L. Lighting. A lights providing to illuminate any public or private parking area or vehicle sales area shall be arranged to direct the light away from any adjacent residential district.
- M. Signs. Signs which are placed on parking lots shall be designed and installed in accordance with Chapter 18.780, Signs.

N. Space and aisle dimensions. (Figure 18.765.1)

FIGURE 18.765.1 OFF-STREET SURFACE PARKING MATRIX Required Space and Aisle Dimensions in Feet												
A	COMPACT						STANDARD					
	B	C	D	E	F	G	B	C	D	E	F	G
45°	7.50	15.5	13.0	10.61	44.0	2.0	8.5	17.5	13.0	12.0	48.0	2.0
	7.75	15.5	12.0	10.96	43.0	2.0	9.0	17.5	12.0	12.7	47.2	2.0
	7.75	15.5	11.0	10.96	42.0	2.0	9.5	17.5	11.0	13.4	46.0	2.0
	8.00	15.5	11.0	11.32	42.0	2.0	10.0	17.5	11.0	14.1	46.0	2.0
60°	7.50	17.0	18.0	8.62	48.0	2.5	8.5	19.0	18.0	9.80	56.0	2.5
	7.75	17.0	16.0	9.01	46.0	2.5	9.0	19.0	16.0	10.4	54.0	2.5
	7.75	17.0	15.0	9.01	54.0	2.5	9.5	19.0	15.0	11.0	53.0	2.5
	8.00	17.0	14.0	9.20	44.0	2.5	10.0	19.0	14.0	11.6	52.0	2.5
75°	7.50	17.5	25.5	7.73	60.5	2.5	8.5	19.5	25.5	8.80	64.0	2.5
	7.75	17.5	23.0	7.99	58.0	2.5	9.0	19.5	23.0	9.30	62.0	2.5
	7.75	17.5	22.0	7.99	57.0	2.5	9.5	19.5	22.0	9.80	61.0	2.5
	8.00	17.5	21.0	8.25	56.0	2.5	10.0	19.5	21.0	10.3	60.0	2.5
90°	7.50	16.5	28.0	7.50	61.0	3.0	8.5	18.5	28.0	8.50	65.0	3.0
	7.75	16.5	26.0	7.75	60.0	3.0	9.0	18.5	26.0	9.00	63.0	3.0
	7.75	16.5	25.0	7.75	59.0	3.0	9.5	18.5	25.0	9.50	62.0	3.0
	8.00	16.5	24.0	8.00	58.0	3.0	10.0	18.5	24.0	10.0	61.0	3.0

Stall width dimensions may be distributed as follows: 50% standard spaces, 50% compact spaces. All compact spaces shall be labeled as such.



- A Parking Angle
- B Stall Width
- C Stall Depth (no bumper overhang)
- D Aisle Width Between Stall Lines (5)
- E Stall Width Parallel to Aisle
- F Module Width (no bumper overhang)
- G Bumper Overhang

1. Except as modified for angled parking in Figures 18.765.1 and 18.765.2, the minimum dimensions for parking spaces are:
 - a. 8.5' x 18.5' for a standard space;
 - b. 7.5' x 16.5' for a compact space; and
 - c. As required by applicable State of Oregon and federal standards for designated disabled person parking spaces;
 - d. The width of each parking space includes a stripe which separates each space.
2. Aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width;
3. Minimum standards for a standard parking stall's length and width, aisle width, and maneuvering space shall be determined as noted in Figure 18.765.2.

FIGURE 18.765.2
PARKING STRUCTURE MATRIX
 Required Space and Aisle Dimensions in Feet

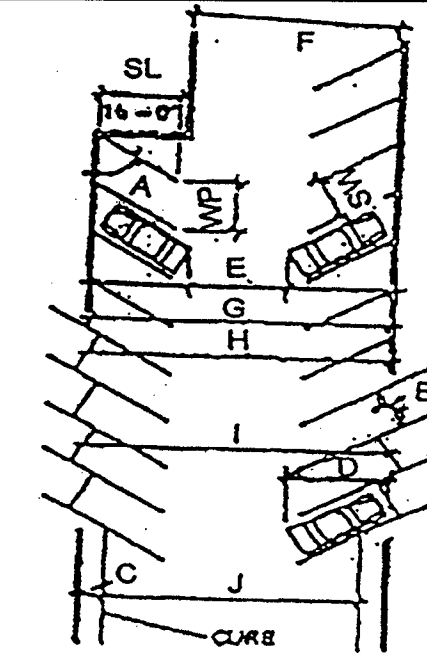
COMPACT

Angle A	Interlock Reduction B	Overhang C	Vehicle Projection D	Width E	F	G	Module Widths		
							H	I	J
45°	2.0	1.41	15.25	11.5	26.75	42.0	40.0	38.0	39.16
60°	1.41	1.75	16.08	13.33	29.66	46.0	44.58	43.16	42.5
75°	0.75	1.91	16.5	16.0	32.5	49.0	48.25	47.5	45.16
90°	0.0	2.0	15.5	20.0	35.5	51.0	51.0	51.0	47.0

STANDARDS

Angle A	Interlock Reduction B	Overhang C	Vehicle Projection D	Width E	F	G	Module Widths		
							H	I	J
45°	2.4	2.08	18.0	13.0	31.0	49.0	46.66	46.33	44.83
60°	1.66	2.58	19.5	16.0	35.5	55.0	51.33	51.66	49.16
75°	0.83	2.91	19.75	20.0	39.75	59.5	58.66	57.83	53.66
90°	0.0	3.0	18.66	24.66	43.33	62.0	62.0	62.0	56.0

- A Parking angle
- B Interlock reduction
- C Overhang clearance
- D Projected vehicle length measured perpendicular to aisle
- E Aisle width
- F Parking module width (wall to wall), single loaded aisle
- G Parking module width (wall to wall), double loaded aisle
- H Parking module width (wall to interlock), double loaded aisle
- I Parking module width (interlock to interlock), double loaded aisle
- J Parking module width (curb to curb), double loaded aisle
- SL Stall Length
- SW Stall Width
- WP Stall width parallel to aisle



18.765.050 Bicycle Parking Design Standards

A. Location and access. With regard to the location and access to bicycle parking:

1. Bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures;
2. Bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways;
3. Outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to located the parking area;
4. Bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.

B. Covered parking spaces.

1. When possible, bicycle parking facilities should be provided under cover.
2. Required bicycle parking for uses served by a parking structure must provide for covered bicycle parking unless the structure will be more than 100 feet from the primary entrance to the building, in which case, the uncovered bicycle parking may be provided closer to the building entrance.

C. Design requirements. The following design requirements apply to the installation of bicycle racks:

1. The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required;
2. Bicycle racks must be securely anchored to the ground, wall or other structure;
3. Bicycle parking spaces shall be at least 2½ feet by six feet long, and, when covered, with a vertical clearance of seven feet. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking;
4. Each required bicycle parking space must be accessible without moving another bicycle;
5. Required bicycle parking spaces may not be rented or leased except where required motor vehicle parking is rented or leased. At-cost or deposit fees for bicycle parking are exempt from this requirement;
6. Areas set aside for required bicycle parking must be clearly reserved for bicycle parking only.

- D. Paving. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete, other pervious paving surfaces, or similar material. This surface must be designed and maintained to remain well-drained.
- E. Minimum bicycle parking requirements. The total number of required bicycle parking spaces for each use is specified in Table 18.768.2 in Section 18.765.070.H. In no case shall there be less than two bicycle parking spaces. Single-family residences and duplexes are excluded from the bicycle parking requirements. The Director may reduce the number of required bicycle parking spaces by means of an adjustment to be reviewed through a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.370.020.C.5.e.

18.765.060 Parking Structure Design Standards

- A. Ground-floor windows/wall openings. All parking structures shall provide ground floor windows or wall openings along the street frontages. Blank walls are prohibited. Any wall facing the street shall contain windows, doors or display areas equal to at least 20% of the ground floor wall area facing the street excluding those portions of the face(s) devoted to driveway entrances and exits, stairwells, elevators, and centralized payment booths. Required windows shall have a sill no more than four (4) feet above grade. Where the interior floor level prohibits such placement, the sill may be raised to allow it to be no more than two (2) feet above finished floor wall up to a maximum sill height of six (6) feet above grade.
- B. Exit warning bell. A warning bell or other signal must be provided for exits from parking structures that cross public sidewalks where a standard vision clearance area cannot be provided.
- C. Other standards. Parking structures must comply with all standards of the Uniform Building Code for the State of Oregon as it pertains to structural design, ventilation, lighting and fire/safety requirements and disabled accessibility.
- D. Parking layout and internal circulation. The layout of parking within a parking structure shall be subject to the requirements contained in Figure 18.765.2. An applicant may request approval of an alternative layout and internal circulation by means of a Type II adjustment, as governed in Section 18.370.010, using the approval criteria in Section 18.370.020.C.5.f.

18.765.070 Minimum and Maximum Off-Street Parking Requirements

- A. Parking requirements for unlisted uses.
 - 1. The Director may rule that a use, not specifically listed in Section 18.765.070.H, is a use similar to a listed use and that the same parking standards shall apply. If the applicant requests that the Director's decision be rendered in writing, it shall constitute a Director's Interpretation, as governed by Section 18.340;
 - 2. The Director shall maintain a list of approved unlisted use parking requirements which shall have the same effect as an amendment to this chapter.
- B. Choice of parking requirements. When a building or use is planned or constructed in such a manner that a choice of parking requirements could be made, the use which requires the greater number of parking spaces shall govern.

- C. Measurements. The following measurements shall be used in calculating the total minimum number of vehicle parking spaces required in Section 18.765.070.H:
1. Fractions. Fractional space requirements shall be counted as a whole space;
 2. Employees. Where employees are specified for the purpose of determining the minimum vehicle parking spaces required, the employees counted are those who work on the premises during the largest shift at the peak season;
 3. Students. When students are specified for the purpose of determining the minimum vehicle parking spaces required, the students counted are those who are on the campus during the peak period of the day during a typical school term;
 4. Space. Unless otherwise specified, where square feet are specified, the area measured shall be gross floor area under the roof measured from the faces of the structure, excluding only space devoted to covered off-street parking or loading.
- D. Exclusions to minimum vehicle parking requirements. The following shall not be counted towards the computation of the minimum parking spaces as required in Section 18.765.070.H:
1. On-street parking. Parking spaces in the public street or alley shall not be eligible as fulfilling any part of the parking requirement except; Religious Institutions may count on-street parking around the perimeter of the use provided that the following criteria have been satisfied:
 - a. The on-street parking is on a street that is designed and physically improved to accommodate parking within the right-of-way;
 - b. The street where on-street parking is proposed is not located on local residential streets.
 2. Fleet parking. Required vehicle parking spaces may not be used for storage of fleet vehicles, except when a use can show that employee and fleet parking spaces are used interchangeably, e.g., the employee drives the fleet vehicle from home, or the spaces are used for fleet storage only at night and are available for employee use during the day. For the purposes of this title, space exclusively devoted to the storage of fleet vehicles will be considered as outdoor storage.
- E. Exceptions to maximum parking standards. When calculating the maximum vehicle parking allowed as regulated by Section 18.765.080.H, the following exception shall apply:
1. The following types of parking shall not be included:
 - a. Parking contained in a parking structure either incorporated into a building or free-standing;
 - b. Market-rate paid parking;
 - c. Designated carpool and/or vanpool spaces;
 - d. Designated disabled-accessible parking spaces;
 - e. Fleet parking.

2. If application of the maximum parking standard would result in less than six parking spaces for a development with less than 1,000 gross square feet of floor area, the development shall be allowed up to six parking spaces. If application of the maximum parking standard would result in less than 10 vehicle parking spaces for a development between 1,000 and 2,000 gross square feet, the development will be allowed up to 10 vehicle parking spaces.
- F. Reductions in minimum required vehicle parking. Reductions in the required number of vehicle parking spaces may be permitted as follows:
1. The Director may reduce off-street vehicle parking spaces per Section 18.765.070.H by up to 20% in new developments for the incorporation of transit-related facilities such as bus stops and pull-outs, bus shelters, transit-oriented developments and other transit-related development through a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.370.020.C.5.b. Applicants who qualify for this adjustment may also apply for further parking reductions per 18.765.070.F.2. below;
 2. The Director may reduce the total required off-street vehicle parking spaces per Section 18.765.070.H by up to a total of 20% by means of parking adjustment to be reviewed through a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.370.020.C.5.a.
 3. The Director is authorized to reduce up to 10% of existing required parking spaces at a conversion ratio of one parking space for each 100 square feet of transit facility for developments which incorporate transit-related facilities such as bus stops and pull-outs, bus shelters, transit-oriented development or other transit-related facilities through a Type I procedure, as governed by Section 18.390.030, using approval criteria contained in Section 18.370.020.C.5.c.
- G. Increases in maximum required vehicle parking. The Director may increase the total maximum number of vehicle spaces allowed in Section 18.765.070.H by means of a parking adjustment to be reviewed by means of a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in section 18.370.020.C.5.d.
- H. Specific requirements. (See Table 18.765.2) (Ord. 02-13)

18.765.080 Off-Street Loading Requirements

- A. Off-street loading spaces. Commercial, industrial and institutional buildings or structures to be built or altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows:
1. A minimum of one loading space is required for buildings with 10,000 gross square feet or more;
 2. A minimum of two loading spaces for buildings with 40,000 gross square feet or more.
- B. Off-street loading dimensions.
1. Each loading berth shall be approved by the City Engineer as to design and location;

2. Each loading space shall have sufficient area for turning and maneuvering of vehicles on the site. At a minimum, the maneuvering length shall not be less than twice the overall length of the longest vehicle using the facility site;
3. Entrances and exits for the loading areas shall be provided at locations approved by the City Engineer in accordance with Chapter 18.710;
4. Screening for off-street loading facilities is required and shall be the same as screening for parking lots in accordance with Chapter 18.745.

Table 18.765.2 Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements

	MINIMUM		MAXIMUM ^[1]		BICYCLE ^[2]
			ZONE A	ZONE B	
RESIDENTIAL					
Household Living					
Single Units, Attached	See Multifamily (M)	none (M)	none (M)	none	none
Single Units, Detached	1.0/DU	none (M)	none (M)	none	none
Accessory Units	1.0/DU	none	none	none	none
Duplexes					none
Multifamily Units	DU<500 sq ft: 1.0/DU (M) 1 bedroom: 1.25/DU (M) 2 bedroom: 1.5/DU (M) 3 bedroom: 1.75/DU (M)	none (M)	none (M)	none (M)	1.0/2 DUs except elderly, which is 1.0/20 DUs
Manufactured Units	1.0/DU (M)	none (M)	none (M)	none (M)	none
Mobile Home Parks	1.0/DU (M)	none (M)	none (M)	none (M)	none
Group Living	1.0/room 1.0/2.5 beds	none 2.7/1,000 ^[3]	none none	none 1.0/5 beds	
Transitional Housing	1.0/2.5 beds	none	none	1.0/5 beds	
Home Occupation	none	none	none	none	
CIVIC					
Basic Utilities	none	none	none	none	
Colleges	1.0/5 students/staff (M)	1.0/3.3 students/staff (M)	1.0/3.3 students/staff (M)	1.0/3.0 students/staff	
Community Recreation	2.0/1,000	2.5/1,000	4.0/1,000	0.3/1,000	
Cultural Institutions	2.5/1,000	3.5/1,000	4.5/1,000	1.0/1,000	
Day Care	Home: none Commercial: 2.0/classroom	none 2.7/1,000	none 3.2/1,000	Home: none Commercial: 1.5/classroom	
Emergency Services	3.0/1,000	3.5/1,000	4.5/1,000	0.5/1,000	
Medical Centers	2.0/1,000 ^[4]	2.7/1,000 ^[4]	3.2/1,000 ^[4]	0.2/1,000	

NA: Not Addressed ^[1] To be determined by the City of Tigard based on Metro criteria.

DU: Dwelling Unit ^[2] Required bicycle parking shall be required per the ratios below except in no case shall there be fewer than two space provided.

(M): Metro Requirement ^[3] Refers to 1,000 sq. ft. of floor area, unless otherwise noted.

^[4] Does not include outpatient clinics or medical offices; see Medical/Dental Offices.

Table 18.765.2 Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements (Cont.)

	MINIMUM	MAXIMUM ¹			BICYCLE ²
		ZONE A	ZONE B		
Postal Services	2.5/1,000	3.0/1,000	4.5/1,000		0.3/1,000
Public Support Facilities	none	none	none		none
Religious Institutions	1.0/3 ^[6] seats in main assembly area (M)	1.0/1.7 seats in main assembly area (M)	1.0/1.3 seats in main assembly area (M)		1.0/20 seats in main assembly area
Schools	Preschool: 5.0+1/classroom Elementary/JR: 2.0/classroom SR: 1.0/5 students/staff (M)	Preschool: 7.0+1.0 classroom Elementary/JR: 2.5/classroom SR: 1.0/3.3 students/staff (M)	Preschool: 10.0+1/classroom Elementary/JR: 3.5/classroom SR: 1.0/3.3 students/staff (M)		Preschool: 1.0/classroom Elementary/JR: 6.0/classroom SR: 6.0/classroom
Social/Fraternal Clubs/Lodges	10.0/1,000 main assembly area	12.0/1,000 main assembly area	14.0/1,000 main assembly area		2.0/1,000 main assembly area
COMMERCIAL ^[5]					
Commercial Lodging	1.0/room	1.2/room	1.4/room		1.0/10 rooms
Eating and Drinking Establishments	Fast food: 9.9/1,000 (M) other: 15.3/1,000 (M)	12.4/1,000 (M) 19.1/1,000 (M)	14.9/1,000 (M) 23.0/1,000 (M)		All: 1.0/1,000
Entertainment - Oriented					
Major Event Entertainment	1.0/3 seats or 1.0/6' bench	1.0/2.5 seats or 1.0/5' bench	1.0/2 seats or 1.0/4' bench		1.0/10 seats or 40' bench
Outdoor Entertainment	4.0/1,000 (M)	4.5/1,000	5.0/1,000		0.4/1,000
Indoor Entertainment	4.3/1,000 (M) Theater: 1.0/3 seats (M)	5.4/1,000 (M) Theater: 1.0/2.5 seats (M)	6.5/1,000 (M) Theater: 1.0/2.0 seats (M)		0.5/1,000 1.0/10 seats
Adult Entertainment	2.5/1,000 1.0/3 seats (M)	3.5/1,000 1.0/1.25 seats (M)	4.5/1,000 1.0/2.0 seats (M)		0.5/1,000 1.0/20 seats
General Retail					
Sales - Oriented	3.7/1,000 (M)	5.1/1,000 (M)	6.2/1,000 (M)		0.3/1,000
Personal Services	2.5/1,000 Bank with drive in: 4.3/1,000(M)	3.0/1,000 5.4/1,000 (M)	4.5/1,000 6.5/1,000 (M)		1.0/1,000 1.0/1,000
Repair - Oriented	3.3/1,000	4.0/1,000	4.5/1,000		0.3/1,000
Bulk Sales	1.0/1,000 but no less than 10.0	1.3/1,000	2.0/1,000		0.3/1,000
Outdoor Sales	1.0/1,000 sales area	1.3/1,000 sales area	2.0/1,000 sales area		0.1/1,000 sales area
Animal - Related	3.3/1,000	4.0/1,000	4.5/1,000		0.3/1,000

^[5]Existing buildings directly abutting Main Street are not required to add additional off-street parking for a change of use except for entertainment uses. New buildings or existing buildings that undergo remodeling provided the original square footage of the buildings remain the same also are not required to add additional off-street parking. Entertainment uses and construction of new buildings abutting Main Street require parking according to the standards of Table 18.765.2.

^[6]Religious Institutions may provide 1 space for every 4 seats on site in the main assembly area provided that they supply the city with a parking plan that demonstrates that the peak parking demand of 1 space for every 3 seats is met utilizing any combination of the alternatives mentioned in this chapter. Adjustments to the minimum parking of 1 space for every 3 seats may be granted per applicable provisions of the code, but shall not decrease the amount of required on-site parking to less than 1 space for every 4 seats (unless the cumulative value of all adjustments granted results in an adjusted requirement of less than 1 space for every 4 seats).

Table 18.765.2 Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements (Cont.)

	MAXIMUM ¹			BICYCLE ²
	MINIMUM	ZONE A	ZONE B	
Motor Vehicle Related				
Motor Vehicle Sales/Rental	1.0/1,000 but no less than 4.0	1.3/1,000 but no less than 4.0	2.0/1,000 but no less than 4.0	0.2/1,000 sales area
Motor Vehicle Servicing/Repair	2.0/1,000 but no less than 4.0	2.3/1,000 but no less than 4.0	2.6/1,000 but no less than 4.0	0.2/1,000
Vehicle Fuel Sales	3.0+2.0/service bay	4.0+2.0/service bay	4.0+2.5/service bay	0.2/1,000
Office				
	2.7/1,000 (M)	3.4/1,000 (M)	4.1/1,000 (M)	0.5/1,000
	3.9/1,000 (M)	4.9/1,000 (M)	5.9/1,000 (M)	0.4/1,000
Self-Service Storage	1.0/4 storage units	1.0/4 storage units	1.0/2 storage units	1.0/40 storage units
Non-Accessory Parking	none	none	none	none
INDUSTRIAL				
Industrial Services	0.8/1,000	1.2/1,000	1.8/1,000	0.1/1,000
Manufacturing and Production				
Light Industrial	1.6/1,000 (M)	none	none	0.1/1,000
General Industrial	1.6/1,000 (M)	none	none	0.1/1,000
Heavy Industrial	1.6/1,000 (M)	none	none	0.1/1,000
Railroad Yards	none	none	none	none
Research and Development	2.0/1,000	3.0/1,000	3.8/1,000	0.5/1,000
Warehouse/Freight Movement	≤150,000 sq ft: 0.5/1,000 >150,000 sq ft: 0.3/1,000 (M)	0.8/1,000 0.4/1,000 (M)	1.2/1,000 0.5/1,000 (M)	0.1/1,000
Waste-Related	5.0	7.0	10.0	none
Wholesale Sales	0.8/1,000	1.2/1,000	1.8/1,000	0.1/1,000

Table 18.765.2 Minimum and Maximum Required Off-street Vehicle and Bicycle Parking Requirements (Cont.)

	MINIMUM	MAXIMUM ¹		BICYCLE ²
		ZONE A	ZONE B	
OTHER				
Agriculture/Horticulture	2.5/1,000 sales area but no less than 4.0	none	none	none
Cemeteries	Exempt	Exempt	Exempt	none
Detention Facilities	1.0/2.5 beds	none	none	1.0/2.5 beds
Heliports	none	none	none	none
Mining	<5.0	none	none	none
Wireless Communication Facilities	none	none	none	none
Rail Lines/Utility Corridors	none	none	none	none

(Ord. 02-13)

Chapter 18.775 SENSITIVE LANDS

Sections:

18.775.010	Purpose
18.775.020	Applicability of Uses: Permitted, Prohibited, and Nonconforming
18.775.030	Administrative Provisions
18.775.040	General Provisions for Floodplain Areas
18.775.050	General Provisions for Wetlands
18.775.060	Expiration of Approval: Standards for Extension of Time
18.775.070	Sensitive Land Permits
18.775.080	Application Submission Requirements
18.775.090	Special Provisions for Development Along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek
18.775.100	Adjustments to Underlying Zone Setback Standards
18.775.110	Density Transfer
18.775.120	Variances to Section 18.775.090 Standards
18.775.130	Plan Amendment Option

18.775.010 Purpose

- A. Maintain integrity of rivers, streams, and creeks. Sensitive land regulations contained in this chapter are intended to maintain the integrity of the rivers, streams, and creeks in Tigard by minimizing erosion, promoting bank stability, maintaining and enhancing water quality, and fish and wildlife habitats, and preserving scenic quality and recreation potential.
- B. Implement comprehensive plan and floodplain management program. The regulations of this chapter are intended to implement the comprehensive plan and the city's flood plain management program as required by the National Flood Insurance Program, and help to preserve natural sensitive land areas from encroaching use and to maintain the February 18, 2005, zero-foot rise floodway elevation.
- C. Implement Clean Water Service(CWS) Design and Construction Standards. The regulations of this chapter are intended to protect the beneficial uses of water within the Tualatin River Basin in accordance with the CWS "Design and Construction Standards", as adopted February 7, 2000.
- D. Implement the Metro Urban Growth Management Functional Plan. The regulations of this chapter are intended to protect the beneficial water uses and functions and values of resources within water quality and flood management areas and to implement the performance standards of the Metro Urban Growth Management Functional Plan.
- E. Implement Statewide Planning Goal 5 (Natural Resources). The regulations in this chapter are intended to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule pertaining to wetland and riparian corridors.
- F. Protect public health, safety, and welfare. Sensitive land areas are designated as such to protect the public health, safety, and welfare of the community through the regulation of these sensitive land areas.

G. Location. Sensitive lands are lands potentially unsuitable for development because of their location within:

1. The 100-year floodplain or 1996 flood inundation line, whichever is greater;
2. Natural drainageways;
3. Wetland areas which are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard "Wetland and Stream Corridors Map"; ~~and~~
4. Steep slopes of 25% or greater and unstable ground. (Ord. 05-01); and
5. Significant fish and wildlife habitat areas designated on the City of Tigard "Significant Habitat Areas Map". ~~Precise boundaries may vary from those shown on the map; specific delineations shall be conducted in accordance with the methodology in Section 18.775.140.~~

18.775.020 Applicability of Uses: Permitted, Prohibited, and Nonconforming

A. CWS Stormwater Connection Permit. All proposed "development", must obtain a Stormwater Connection Permit from CWS pursuant to its "Design and Construction Standards". As used in this chapter, the meaning of the word "development" shall be as defined in the CWS "Design and Construction Standards": All human-induced changes to improved or unimproved real property including:

1. Construction of structures requiring a building permit, if such structures are external to existing structures;
2. Land division;
3. Drilling;
4. Site alterations resulting from surface mining or dredging;
5. Grading;
6. Construction of earthen berms;
7. Paving;
8. Excavation; or
9. Clearing when it results in the removal of trees or vegetation which would require a permit from the local jurisdiction or an Oregon Department of Forestry tree removal permit.
10. The following activities are not included in the definition of development:
 - a. Farming activities when conducted in accordance with accepted farming practices as defined in ORS 30.930 and under a Senate Bill 1010 water quality management plan;

- b. Construction, reconstruction, or modification of a single family residence on an existing lot of record within a subdivision that was approved by the City or County after September 9, 1995 (from ORS 92.040(2)); and
 - c. Any development activity for which land use approvals have been issued pursuant to a land use application submitted to the City or County on or before February 4, 2000, and deemed complete or before March 15, 2000.
- B. Outright permitted uses with no permit required. Except as provided below and by Sections 18.775.020.D, 18.775.020.F, and 18.775.020.G, the following uses are outright permitted uses within the 100-year floodplain, drainageways, slopes that are 25% or greater, and unstable ground when the use does not involve paving. For the purposes of this chapter, the word "structure" shall exclude: children's play equipment, picnic tables, sand boxes, grills, basketball hoops and similar recreational equipment.
- 1. Accessory uses such as lawns, gardens, or play areas; except in (a) a Water Quality Sensitive Area or Vegetated Corridor, as defined in the CWS "Design and Construction Standards", or (b) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 - 2. Farm uses conducted without locating a structure within the sensitive land area; except in (a) a Water Quality Sensitive Area or Vegetative Corridor, as defined in CWS "Design and Construction Standards", or (b) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 - 3. Community recreation uses, excluding structures; except in (a) a Water Quality Sensitive Area or Vegetated Corridor, as defined in the CWS "Design and Construction Standards", or (b) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 - 4. Public and private conservation areas for water, soil, open space, forest, and wildlife resources.
 - 5. Removal of poison oak, tansy ragwort, blackberry, English ivy, or other noxious vegetation.
 - 6. Maintenance of floodway excluding re-channeling; except in (a) a Water Quality Sensitive Area or Vegetated Corridor, as defined in the CWS "Design and Construction Standards", or (b) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 - 7. Fences; except in (a) the floodway area, (b) a Water Quality Sensitive Area or Vegetated Corridor, as defined in the CSW "design and Construction Standards", or (c) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 - 8. Accessory structures which are less than 120 square feet in size; except in (a) the floodway area, (b) a Water Quality Sensitive Area or Vegetative Corridor, as defined in the CWS "Design and Construction Standards", or (c) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 - 9. Land form alterations involving up to 10 cubic yards of material; except in (a) the floodway area, (b) a Water Quality Sensitive Area or Vegetative Corridor, as defined in the CWS "Design and

Construction Standards”, or (c) the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.

C. Exemptions. When performed under the direction of the City, ~~or in coordination with the City to implement the Clean Water Services Healthy Streams Plan,~~ and in compliance with the provisions of the City of Tigard Standards and Specifications for Riparian Area Management, on file in the Engineering Division, ~~and Clean Water Services Design and Construction Standards,~~ the following shall be exempt from the provisions of this section:

1. Responses to public emergencies, including emergency repairs to public facilities;
2. Stream and wetlands restoration and enhancement programs;
3. Non-native vegetation removal;
4. Planting of native plant species; and
5. Routine maintenance or replacement of existing public facilities projects.

D. Jurisdictional wetlands. Landform alterations or developments which are only within wetland areas that meet the jurisdictional requirements and permit criteria of the U.S. Army Corps of Engineers, Division of State Lands, CWS, and/or other federal, state, or regional agencies, and are not designated as significant wetlands on the City of Tigard “Wetland and Streams Corridors Map”, do not require a sensitive lands permit. The City shall require that all necessary permits from other agencies are obtained. All other applicable City requirements must be satisfied, including sensitive land permits for areas within the 100-year floodplain, slopes of 25% or greater or unstable ground, drainageways, and wetlands which are not under state or federal jurisdiction.

E. Administrative sensitive lands review.

1. Administrative sensitive lands permits in the 100-year floodplain, drainageway, slopes that are 25% or greater, and unstable ground shall be obtained from the appropriate community development division for the following:
 - a. The City Engineer shall review the installation of public support facilities such as underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights, and driveway aprons by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this Chapter;
 - b. The City Engineer shall review minimal ground disturbance(s) or landform alterations involving 10 to 50 cubic yards of material, except in the floodway area, for land that is within public easements and rights-of-way by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this Chapter;
 - c. The Director shall review minimal ground disturbance(s) or landform alterations involving 10 to 50 cubic yards of material, except in the floodway area by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this Chapter;
 - d. The Director shall review the repair, reconstruction, or improvement of an existing structure or utility, the cost of which is less than 50 percent of the market value of the structure prior

to the improvement or the damage requiring reconstruction provided no development occurs in the floodway by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this Chapter;

- e. The Building Official shall review building permits for accessory structures which are 120 to 528 square feet in size, except in the floodway area; and
 - f. The Director shall review applications for paving on private property, except in the floodway area by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this Chapter.
2. The responsible community development division shall approve, approve with conditions, or deny an application for a development permit, as described above, based on the standards set forth in Sections 18.775.050, 18.775.070, and 18.775.080.

F. Sensitive lands permits issued by the Director.

1. The Director shall have the authority to issue a sensitive lands permit in the following areas by means of a Type II procedure, as governed in Section 18.390.040, using approval criteria contained in Section 18.775.070:
- a. Drainageways;
 - b. Slopes that are 25% or greater or unstable ground; and
 - c. Wetland areas which are not regulated by other local, state, or federal agencies and are designated as significant wetlands on the City of Tigard "Wetland and Streams Corridors Map".
2. Sensitive lands permits shall be required for the areas in Section 18.775.020.F.1 above when any of the following circumstances apply:
- a. Ground disturbance(s) or land form alterations involving more than 50 cubic yards of material;
 - b. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction;
 - c. Residential and non-residential structures intended for human habitation; and
 - d. Accessory structures which are greater than 528 square feet in size, outside floodway areas.

G. Sensitive lands permits issued by the Hearings Officer.

1. The Hearings Officer shall have the authority to issue a sensitive lands permit in the 100-year floodplain by means of a Type IIIA procedure, as governed by Section 18.390.050, using approval criteria contained in Section 18.775.070.
2. Sensitive lands permits shall be required in the 100-year floodplain when any of the following circumstances apply:

- a. Ground disturbance(s) or landform alterations in all floodway areas;
 - b. Ground disturbance(s) or landform alterations in floodway fringe locations involving more than 50 cubic yards of material;
 - c. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway;
 - d. Structures intended for human habitation; and
 - e. Accessory structures which are greater than 528 square feet in size, outside of floodway areas.
- H. Other uses. Except as explicitly authorized by other provisions of this chapter, all other uses are prohibited on sensitive land areas.
- I. Nonconforming uses. A use established prior to the adoption of this title, which would be prohibited by this Chapter or which would be subject to the limitations and controls imposed by this Chapter, shall be considered a nonconforming use. Nonconforming uses shall be subject to the provisions of Chapter 18.760.

18.775.030 Administrative Provisions

- A. Interagency Coordination. The appropriate approval authority shall review all sensitive lands permit applications to determine that all necessary permits shall be obtained from those federal, state, or local governmental agencies from which prior approval is also required.
- 1. As governed by CWS "Design and Construction Standards", the necessary permits for all "development", as defined in Section 18.775.020.A above, shall include a CWS Service Provider Letter, which specifies the conditions and requirements necessary, if any, for an applicant to comply with CWS water quality protection standards and for the Agency to issue a Stormwater Connection Permit.
- B. Alteration or relocation of water course.
- 1. The Director shall notify communities adjacent to the affected area and the State Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
 - 2. The Director shall require that maintenance is provided within the altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished.
- C. Apply Standards. The appropriate approval authority shall apply the standards set forth in Sections 18.775.040, and 18.775.070 when reviewing an application for a sensitive lands permit.
- D. Elevation and flood-proofing certification. The appropriate approval authority shall require that the elevations and flood-proofing certification required in Section 18.775.030.E below be provided prior to permit issuance and verification upon occupancy and final approval.

E. Maintenance of records.

1. Where base flood elevation data is provided through the Flood Insurance Study, the Building Official shall obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
2. For all new or substantially improved flood-proofed structures, the Building Official shall:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the flood-proofing certifications required in this chapter.
3. The Director shall maintain for public inspection all other records pertaining to the provisions in this chapter.

18.775.040 General Provisions for Floodplain Areas

- A. Permit review. The appropriate approval authority shall review all permit applications to determine whether proposed building sites will minimize the potential for flood damage.
- B. Special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study of the City of Tigard," effective February 18, 2005, with accompanying Flood Insurance Rate Maps effective February 18, 2005, is hereby adopted by reference and declared to be a part of this chapter. This Flood Insurance Study is on file at the Tigard Civic Center.
- C. Base flood elevation data. When base flood elevation data has not been provided in accordance with Section 18.775.040.B above, the Director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 18.775.040.M and 18.775.040.N below).
- D. Test of reasonableness. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that the potential for flood damage to the proposed construction will be minimized. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these sensitive land areas may result in higher insurance rates.
- E. Resistant to flood damage. All new construction and substantial improvements, including manufactured homes, shall be constructed with materials and utility equipment resistant to flood damage.
- F. Minimize flood damage. All new construction and substantial improvements, including manufactured homes, shall be constructed using methods and practices that minimize flood damage.
- G. Equipment protection. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- H. Water Supply Systems. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwater into the system.
- I. Anchoring. All new construction, all manufactured homes and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- J. Sanitary sewerage systems. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharge from the systems into floodwater.
- K. On-site water disposal systems. On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- L. Residential Construction.
1. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including the basement, elevated at least one foot above base flood elevation;
 2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.
 3. Manufactured homes shall be securely anchored to an adequately anchored permanent foundation system. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- M. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or together with attendant utility and sanitary facilities, shall:
1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Building Official as set forth in Section 18.775.030.E.2; and
 4. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 18.775.040.L.2. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).
- N. Subdivisions and partitions in 100-year floodplain. Subdivisions and partitions in the 100-year floodplain shall meet the following criteria:
1. The design shall minimize the potential for flood damage;
 2. Public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed so as to minimize flood damage;
 3. Adequate drainage shall be provided to reduce exposure to flood damage; and
 4. For subdivisions or partitions which contain more than 50 lots or 5 acres and where base flood elevation data is not available from the Federal Emergency Management Agency (FEMA) or another authoritative source, the applicant shall generate base flood elevation data to be reviewed as part of the application.
- O. Recreational vehicles. Recreational vehicles placed on sites within zones A1-A30, AH, and AE on the community's Flood Insurance Rate Map either:
1. Are on the site for fewer than 180 consecutive days;
 2. Are fully licensed and ready for highway use:
 - a. Are on wheels or jacking system,
 - b. Are attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - c. Meet the requirements of E, F, I, and L above and the elevation and anchoring requirements for manufactured homes. (Ord. 05-01)

18.775.050 General Provisions for Wetlands

- A. Code compliance requirements. Wetland regulations apply to those areas classified as significant on the City of Tigard "Wetland and Streams Corridors Map", and to a vegetated corridor ranging from 25 to 200 feet wide, measured horizontally, from the defined boundaries of the wetland, per "Table 3.1 Vegetated Corridor Widths" and "Appendix C" Natural Resource Assessments" of the CWS "Design and Construction Standards". Wetland locations may include but are not limited to those areas identified as wetlands in "Wetland Inventory and Assessment for the City of Tigard, Oregon," Fishman Environmental Services, 1994.

- B. Delineation of wetland boundaries. Precise boundaries may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary. Wetland delineation will be done by qualified professionals at the applicant's expense.

18.775.060 Expiration of Approval: Standards for Extension of Time

- A. Voiding of permit. Approval of a sensitive lands permit shall be void if:
1. Substantial construction of the approved plan has not begun within a one-and-one-half year period; or
 2. Construction on the site is a departure from the approved plan.
- B. Granting of extension. The Director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year, provided that:
1. No changes are made on the original plan as approved by the approval authority;
 2. The applicant can show intent of initiating construction of the site within the one year extension period; and
 3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.
- C. Notice of the decision. Notice of the decision shall be provided to the applicant. The Director's decision may be appealed by the applicant as provided by Section 18.390.040.G and 18.390.040.H.

18.775.070 Sensitive Land Permits

- A. Permits required. An applicant who wishes to develop within a sensitive area, as defined in Chapter 18.775, must obtain a permit in certain situations. Depending on the nature and intensity of the proposed activity within a sensitive area, either a Type II or Type III permit is required, as delineated in Sections 18.775.020.F and 18.775.020.G. The approval criteria for various kinds of sensitive areas, e.g., floodplain, are presented in Sections 18.775.070.B – 18.775.070.E below.
- B. Within the 100-year floodplain. The Hearings Officer shall approve, approve with conditions or deny an application request within the 100-year floodplain based upon findings that all of the following criteria have been satisfied:
1. Land form alterations shall preserve or enhance the floodplain storage function and maintenance of the zero-foot rise floodway shall not result in any encroachments, including fill, new construction, substantial improvements and other development unless certified by a registered professional engineer that the encroachment will not result in any increase in flood levels during the base flood discharge;
 2. Land form alterations or developments within the 100-year floodplain shall be allowed only in areas designated as commercial or industrial on the comprehensive plan land use map, except that alterations or developments associated with community recreation uses, utilities, or public support facilities as defined in Chapter 18.120 of the Community Development Code shall be allowed in areas designated residential subject to applicable zoning standards;

3. Where a land form alteration or development is permitted to occur within the floodplain it will not result in any increase in the water surface elevation of the 100-year flood;
 4. The land form alteration or development plan includes a pedestrian/bicycle pathway in accordance with the adopted pedestrian/bicycle pathway plan, unless the construction of said pathway is deemed by the Hearings Officer as untimely;
 5. The plans for the pedestrian/bicycle pathway indicate that no pathway will be below the elevation of an average annual flood;
 6. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS permits and approvals shall be obtained; and
 7. Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the consideration of dedication of sufficient open land area within and adjacent to the floodplain in accordance with the comprehensive plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.
- C. With steep slopes. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit on slopes of 25% or greater or unstable ground based upon findings that all of the following criteria have been satisfied:
1. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
 2. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
 3. The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and
 4. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening.
- D. Within drainageways. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit within drainageways based upon findings that all of the following criteria have been satisfied:
1. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
 2. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;

3. The water flow capacity of the drainageway is not decreased;
 4. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening;
 5. The drainageway will be replaced by a public facility of adequate size to accommodate maximum flow in accordance with the adopted 1981 Master Drainage Plan;
 6. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals shall be obtained;
 7. Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the consideration of dedication of sufficient open land area within and adjacent to the floodplain in accordance with the Comprehensive Plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian bicycle pathway plan.
- E. Within wetlands. The Director shall approve, approve with conditions or deny an application request for a sensitive lands permit within wetlands based upon findings that all of the following criteria have been satisfied:
1. The proposed land form alteration or development is neither on wetland in an area designated as significant wetland on the Comprehensive Plan Floodplain and Wetland Map nor is within the vegetative corridor established per "Table 3.1 Vegetative Corridor Widths" and Appendix C: Natural Resources Assessments" of the CWS "Design and Construction Standards", for such a wetland;
 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than the minimum required for the use;
 3. Any encroachment or change in on-site or off-site drainage which would adversely impact wetland characteristics have been mitigated;
 4. Where natural vegetation has been removed due to land form alteration or development, erosion control provisions of the Surface Water Management program of Washington County must be met and areas not covered by structures or impervious surfaces will be replanted in like or similar species in accordance with Chapter 18.745, Landscaping and Screening;
 5. All other sensitive lands requirements of this chapter have been met;
 6. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals shall be obtained;
 7. The provisions of Chapter 18.790, Tree Removal, shall be met;
 8. Physical Limitations and Natural Hazards, Floodplains and Wetlands, Natural Areas, and Parks, Recreation and Open Space policies of the Comprehensive Plan have been satisfied.

18.775.080 Application Submission Requirements

A. Application submission requirements. All applications for uses and activities identified in Sections 18.775.020.A – 18.775.020.G shall be made on forms provided by the Director and must include the following information in graphic, tabular and/or narrative form. The specific information on each of the following is available from the Director:

1. A CWS Stormwater Connection permit;
2. A site plan;
3. A grading plan; and
4. A landscaping plan.

18.775.090 Special Provisions for Development within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and South Fork of Ash Creek

A. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 666-023-0030) pertaining to wetlands, all wetlands classified as significant on the City of Tigard “Wetlands and Streams Corridors Map” are protected. No land form alterations or developments are allowed within or partially within a significant wetland, except as allowed/approved pursuant to Section 18.775.130.

B. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 660-023-0030) pertaining to riparian corridors, a standard setback distance or vegetated corridor area, measured horizontally from and parallel to the top of the bank, is established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.

1. The standard width for “good condition” vegetated corridors along the Tualatin River is 75 feet, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard “Wetlands and Streams Corridors Map”) is located within the 75-foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.
2. The standard width for “good condition” vegetated corridors along Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50 feet, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard “Wetlands and Streams Corridors Map”) is located within the 50 foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.
3. The minimum width for “marginal or degraded condition” vegetated corridors along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50% of the standard width, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130.
4. The determination of corridor condition shall be based on the Natural Resource Assessment guidelines contained in the CWS “Design and Construction Standards”.

5. The standard setback distance or vegetated corridor area applies to all development proposed on property located within or partially within the vegetated corridors, except as allowed below:
 - a. Roads, pedestrian or bike paths crossing the vegetated corridor from one side to the other in order to provide access to the sensitive area or across the sensitive area, as approved by the City per Section 18.775.070 and by CWS "Design and Construction Standards";
 - b. Utility/service provider infrastructure construction (i.e. storm, sanitary sewer, water, phone, gas, cable, etc.), if approved by the City and CWS;
 - c. A pedestrian or bike path, not exceeding 10 feet in width and meeting the CWS "Design and Construction Standards";
 - d. Grading for the purpose of enhancing the vegetated corridor, as approved by the City and CWS;
 - e. Measures to remove or abate hazards, nuisances, or fire and life safety violations, as approved by the regulating jurisdiction;
 - f. Enhancement of the vegetated corridor for water quality or quantity benefits, fish, or wildlife habitat, as approved by the City and CWS;
 - g. Measures to repair, maintain, alter, remove, add to, or replace existing structures, roadways, driveways, utilities, accessory uses, or other developments provided they are consistent with City and CWS regulations, and do not encroach further into the vegetated corridor or sensitive area than allowed by the CWS "Design and Construction Standards."
6. Land form alterations or developments located within or partially within the Goal 5 safeharbor setback or vegetated corridor areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek that meet the jurisdictional requirements and permit criteria of the CWS, U.S. Army Corps of Engineers, Division of State Lands, and/or other federal, state, or regional agencies, are not subject to the provisions of Section 18.775.090.B, except where the:
 - a. Land form alterations or developments are located within or partially within a good condition vegetated corridor, as defined in Sections 18.775.090.B.1 and 18.775.090.B.2;
 - b. Land form alterations or developments are located within or partially within the minimum width area established for marginal or a degraded condition vegetated corridor, as defined in Section 18.775.090.B.3.

These exceptions reflect instances of the greater protection of riparian corridors provided by the safe harbor provisions of the Goal 5 administrative rule.

18.775.100 Adjustments to Underlying Zone Setback Standards

Adjustments to dimensional standards of the underlying zone district may be approved by the Planning Director when necessary to further the purpose of this section.

- A. Adjustment option. The Planning Director may approve up to 50% adjustment to any dimensional standard (e.g., setback height or lot area) of the underlying zone district to allow development

consistent with the purposes of this section. The purpose of the adjustment process is to reduce adverse impacts on wetlands, stream corridors, fish and wildlife habitat, water quality and the potential for slope of flood hazards.

B. Adjustment criteria. A special adjustment to the standards in the underlying zoning district may be requested under Type II procedure when development is proposed within or adjacent to the vegetated corridor area or within or adjacent to areas designated as "Strictly Limit" or "Moderately Limit" on the City of Tigard "Significant Habitat Areas Map." Verification of significant habitat boundaries shall be done in accordance with the procedures described in Section 18.775.140. In order for the Director to approve a dimensional adjustment to standards in the underlying zoning district, the applicant shall demonstrate that all the following criteria are fully satisfied:

1. The adjustment is the minimum necessary to allow a permitted use, while at the same time minimizing disturbance to a water resource, riparian setback area or water quality buffer.
2. Explicit consideration ahas been given to maximizing vegetative cover, minimizing excavation and minimizing impervious surface area on unbuildable land.
3. Design options have been considered to reduce the impacts of development, including but not limited to multi-story construction, siting of the residence close to the street to reduce driveway distance, maximizing the use of native landscaping materials, minimizing parking areas, minimizing hydrologic impacts and garage space.
4. In no case shall the impervious surface area as a single-family residence (including the building footprint, driveway and parking areas, accessory structures, swimming pools and patios) exceed 3,000 square feet of a vegetated corridor area.
5. Assurances are in place to guarantee that future development will not encroach further on land under the same ownership within the vegetated corridor area.
6. Protected vegetated corridor, significant habitat areas and adjacent buffer areas must be:
 - a. Placed in a non-buildable tract or protected with a restrictive easement.
 - b. Restoration and enhancement of habitat and buffer areas required, including monitoring for five years.

Note:

At their public workshop meeting on November 21, 2006, Council asked staff to reconsider the proposed language (18.775.100.B.6) requiring restoration, enhancement and monitoring of protected areas and that these areas be placed in a non-buildable tract or restrictive easement. Council also questioned the usefulness of "restrictive easements" as a tool for protecting habitat. Staff is in the process of considering alternatives and preparing a response to these concern.

C. Reduction to Minimum Density Requirements for Developments That Include Inventoried Significant Habitat Areas. The minimum number of units required by Section 18.510.040 (Density Calculation) may be waived if necessary to ensure that impacts on habitat areas are minimized.

1. Approval criteria: Reduction requests will be approved if the review body finds that the applicant has shown that the following criteria are met:

- a. An area of the property lot or parcel to be developed has been identified on the Significant Habitat Areas Map.” Verification of significant habitat boundaries shall be done in accordance with the procedures described in Section 18.775.140.
Delineation of habitat boundaries. Precise boundaries may vary from those shown on the “Significant Habitat Areas Map”; specific precise delineation of significant habitat boundaries will be done by qualified professionals at the applicant’s expense using the methodology described in Section 18.775.140.
- b. The proposal will be consistent with the character of the neighboring area.
- c. This provision may only be applied to properties that were inside the Metro Urban Growth Boundary (UGB) on January 1, 2002.
- d. The proposal will directly result in the protection of significant habitat areas through placement in a non-buildable tract or protected with a restrictive easement.

2. Procedure:

- a. The amount of reduction in the minimum density shall be calculated by subtracting the number of square feet of inventoried significant habitat that is permanently protected from the total number of square feet used to calculate the minimum density requirement.
- b. Requests for a reduction are processed as a Type II procedure along with the development proposal for which the application has been filed.

The Planning Director may impose any reasonable condition necessary to mitigate identified impacts resulting from development on otherwise unbuildable land.

18.775.110 Density Transfer

Density may be transferred from vegetated corridor areas as provided in Sections 18.715.020 – 18.715.030.

18.775.120 Variances to Section 18.775.090 Standards

Variances to the use provisions of Section 18.775.090 are not permitted. Variances from measurable (dimensional) provisions of this section shall be discouraged and may be considered only as a last resort.

- A. Type II variance option. The Hearings Officer shall hear and decide variances from dimensional provisions of this chapter under Type III procedure, in accordance with the criteria in Chapter 18.370 of the zoning ordinance.
- B. Additional criteria. In addition to the general variance criteria described in Chapter 18.370, all the following additional criteria must be met to grant a variance to any dimensional provision of this chapter:
 1. The variance is necessary to allow reasonable economic use of the subject parcel of land, which is owned by the applicant, and which was not created after the effective date of this chapter;

2. Strict application of the provisions of this chapter would otherwise result in the loss of a buildable site for a use that is permitted outright in the underlying zoning district, and for which the applicant has submitted a formal application;
3. The applicant has exhausted all options available under this chapter to relieve the hardship;
4. Based on review of all required studies identical to those described in Section 3.02.5.c Tier 2 Alternatives Analysis of the CWS "Design and Construction Standards", the variance is the minimum necessary to afford relief, considering the potential for increased flood and erosion hazard, and potential adverse impacts on native vegetation, fish and wildlife habitat, and water quality;
5. Based on review of all required studies identical to those described in Section 3.02.5 of the CWS "Design and Construction Standards", no significant adverse impacts on water quality, erosion or slope stability will result from approval of this hardship variance, or these impacts have been mitigated to the greatest extent possible;
6. Loss of vegetative cover shall be minimized. Any lost vegetative cover shall be replaced on-site, on a square foot for square foot basis, by native vegetation.

18.775.130 Plan Amendment Option

Any owner of property affected by the Goal 5 safeharbor (1) protection of significant wetlands and/or (2) vegetated areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek may apply for a quasi-judicial comprehensive plan amendment under Type IV procedure. This amendment must be based on a specific development proposal. The effect of the amendment would be to remove Goal 5 protection from the property, but not to remove the requirements related to the CWS Stormwater Connection Permit, which must be addressed separately through an Alternatives Analysis, as described in Section 3.02.5 of the CWS "Design and Construction Standards". The applicant shall demonstrate that such an amendment is justified by either of the following:

- A. ESEE analysis. The applicant may prepare an Environmental, Social, Economic and Energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040.
 1. The analysis shall consider the ESEE consequences of allowing the proposed conflicting use, considering both the impacts on the specific resource site and the comparison with other comparable sites within the Tigard Planning Area;
 2. The ESEE analysis must demonstrate to the satisfaction of the Tigard City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource;
 3. In particular, ESEE analysis must demonstrate why the use cannot be located on buildable land, consistent with the provisions of this chapter, and that there are no other sites within the Tigard Planning area that can meet the specific needs of the proposed use;
 4. The ESEE analysis shall be prepared by a team consisting of a wildlife biologist or wetlands ecologist and a land use planner or land use attorney, all of whom are qualified in their respective fields and experienced in the preparation of Goal 5 ESEE analysis;

5. If the application is approved, then the ESEE analysis shall be incorporated by reference into the Tigard Comprehensive Plan, and the "Tigard Wetland and Stream Corridor Map" shall be amended to remove the site from the inventory.
- B. Determination of "insignificance". In this case, the applicant must demonstrate that the sensitive area site(s) no longer meet(s) the applicable significance threshold defined by the Goal 5 administrative rule, relative to other comparable resources within the Tigard Planning Area.
 1. Significance thresholds are described and applied in the addendum to the City of Tigard Local Wetlands Inventory adopted by reference as part of this chapter.
 2. In considering this claim, the City Council shall determine that the decline in identified resource values did not result from a violation of this chapter or any other provision of the Tigard Community Development Code.

18.775.140 Significant Habitat Areas Map Verification Procedures Delineation Methodology.

A. — Delineation Methodology. The Significant Habitat Areas Map shall be the basis for determining the general location of Significant Habitat Areas on or adjacent to the site.

- A. Applicants who concur that the Significant Habitat Areas Map is accurate shall submit the following information to serve as the basis for verifying the boundaries of inventoried habitat areas:
 1. Submission requirements.
 - a. A detailed property description;
 - b. A scale map of the property showing the locations of Significant Habitat Areas, any existing built area, wetlands or water bodies, Clean Water Services' vegetated corridor, the 100-year floodplain, the 1996 flood inundation line, and contour lines (2-ft. intervals for slope less than 15% and 10-ft intervals for slopes 15% or greater); and
 - c. A current aerial photograph of the property.
 2. Decision Process. The Planning Director's decision shall be based on consideration of submitted information, site visit information, and other factual information. Should the applicant disagree with the Planning Director's determination on the location of significant habitat areas on the property, the precise boundaries shall be verified by the applicant in accordance with the detailed delineation methodology outlined in Section 18.775.140.B.
- B. Applicants who believe that the map is inaccurate shall submit a detailed ~~If resources are indicated on the map, delineations shall be~~ conducted by a qualified professional in accordance with the following methodology to verify the precise boundaries of the inventoried habitat areas by means of a Type II procedure.
 1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:
 - a. Locate the Water Feature that is the basis for identifying riparian habitat.

- 1) Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
 - 2) Locate all flood areas the 100-year floodplain or 1996 flood inundation line, whichever is greater, within 100 feet of the property.
 - 3) Locate all wetlands within 150 feet of the property based on the Tigard "Wetland and Stream Corridors Map" and on the Metro 2002 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232). Identified wetlands on the property shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
- b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas.
- 1) Vegetative cover status shall be as identified on the Metro Vegetative Cover Map
 - 2) The vegetative cover status of a property may be adjusted only if (1) the property was developed prior to the time the regional program was approved, or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the following definitions of vegetative cover types in Table 18.775.1.

Table 18.775.1
Definitions of Vegetated Cover Types

<u>Type</u>	<u>Definition</u>
<u>Low structure vegetation or open soils</u>	<u>Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).</u>
<u>Woody vegetation</u>	<u>Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.</u>
<u>Forest canopy</u>	<u>Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.</u>

- c. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the vegetated corridor measurement methodology as described in Clean Water Services Design and Construction Standards); and
- d. Identify the riparian habitat classes applicable to all areas on the property using Table 18.775.2 and Table 18.775.3.

Table 18.775.2
Method for Locating Boundaries of Class I and II Riparian Areas

<u>Distance in feet from Water Feature</u>	<u>Development/Vegetation Status</u> ¹			
	<u>Developed areas not providing vegetative cover</u>	<u>Low structure vegetation or open soils</u>	<u>Woody vegetation (shrub and scattered forest canopy)</u>	<u>Forest Canopy (closed to open forest canopy)</u>
Surface Streams				
0-50	Class II	Class I	Class I	Class I
50-100		Class II ²	Class I	Class I
100-150		Class II ² if slope>25%	Class II ² if slope>25%	Class II ²
150-200		Class II ² if slope>25%	Class II ² if slope>25%	Class II ² if slope>25%
Wetlands (Wetland feature itself is a Class I Riparian Area)				
0-100		Class II ²	Class I	Class I
100-150				Class II ²
Flood Areas (Undeveloped portion of flood area is a Class I Riparian Area)				
0-100			Class II ²	Class II ²

¹ The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as "forest canopy" the forested area had to be part of a larger patch of forest of at least one acre in size.

² Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

Table 18.775.3
Tualatin Basin "Limit" Decision

<u>RESOURCE CATEGORY</u>	<u>CONFLICTING USE CATEGORY</u>			
	<u>High Intensity Urban</u>	<u>Other Urban</u>	<u>Future Urban (2002 and 2004 additions)</u>	<u>Non-Urban (outside UGB)</u>
<u>Class I & II Riparian Inside Vegetated Corridor</u>	<u>Moderately Limit</u>	<u>Strictly Limit</u>	<u>Strictly Limit</u>	<u>N/A</u>
<u>Class I & II Riparian Outside Vegetated Corridor</u>	<u>Moderately Limit</u>	<u>Moderately Limit</u>	<u>Moderately Limit</u>	<u>Moderately Limit</u>
<u>All Other Resource Areas</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>
<u>Inner Impact Area</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>
<u>Outer Impact Area</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>	<u>Lightly Limit</u>

* Vegetated Corridor standards are applied consistently throughout the District; in HIU areas they supersede the "limit" decision.

2. **Verifying boundaries of inventoried upland habitat.** Upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The "forest canopy" designation is made based on analysis of aerial photographs, as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the Significant Habitat Areas Map unless corrected as provided in this subsection.
- a. Except as provided below, vegetative cover status shall be as identified on the Metro Vegetative Cover Map used to inventory habitat at the time the area was brought within the urban growth boundary (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232).
- b. The only allowed corrections to the vegetative cover status of a property are as follows:
- 1) To correct errors made when the vegetative status of an area was determined based on analysis of the aerial photographs used to inventory the habitat at the time the area was brought within the urban growth boundary. The perimeter of an area delineated as "forest canopy" on the Metro Vegetative Cover Map may be adjusted to more precisely indicate the dripline of the trees within the canopied area provided that no areas providing greater than 60% canopy crown closure are de-classified from the "forest canopy" designation. To assert such errors, applicants shall submit an analysis of the vegetative cover on their property using the aerial photographs that were used to inventory the habitat at the time the area was brought within the urban growth boundary and the definitions of the different vegetative cover types provided in Table 18.775.1; and
- 2) To remove tree orchards and Christmas tree farms from inventoried habitat; provided, however, that Christmas tree farms where the trees were planted prior to 1975 and have not been harvested for sale as Christmas trees shall not be removed from the habitat inventory.
- c. If the vegetative cover status of any area identified as upland habitat is corrected pursuant to 18.775.140.A.2.b.1. to change the status of an area originally identified as "forest canopy," then such area shall not be considered upland habitat unless it remains part of a forest canopy opening less than one acre in area completely surrounding by an area of contiguous forest canopy. ■

Chapter 18.810
STREET AND UTILITY IMPROVEMENT STANDARDS

Sections:

18.810.010	Purpose
18.810.020	General Provisions
18.810.030	Streets
18.810.040	Blocks
18.810.050	Easements
18.810.060	Lots
18.810.070	Sidewalks
18.810.080	Public Use Areas
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18.810.110	Bikeways and Pedestrian Pathways
18.810.120	Utilities
18.810.130	Cash or Bond Required
18.810.140	Monuments
18.810.150	Installation Prerequisite
18.810.160	Installation Conformation
18.810.170	Plan Check
18.810.180	Notice to City
18.810.190	City Inspection
18.810.200	Engineer's Certification
18.810.210	Completion Requirements

18.810.010 Purpose

- A. Purpose. The purpose of this chapter is to provide construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage.

18.810.020 General Provisions

- A. When standards apply. Unless otherwise provided, construction, reconstruction or repair of streets, sidewalks, curbs and other public improvements shall occur in accordance with the standards of this title. No development may occur and no land use application may be approved unless the public facilities related to development comply with the public facility requirements established in this section and adequate public facilities are available. Applicants may be required to dedicate land and build required public improvements only when the required exaction is directly related to and roughly proportional to the impact of the development.
- B. Standard specifications. The City Engineer shall establish standard specifications consistent with the application of engineering principles.
- C. Section 7.40 applies. The provision of Section 7.40 of the Tigard Municipal Code shall apply to this chapter.
- D. Adjustments. Adjustments to the provisions in this chapter related to street improvements may be

granted by means of a Type II procedure, as governed by Section 18.390.040, using approval criteria in Section 18.370.030 C9. (Ord. 99-22)

- E. Except as provided in Section 18.810.030S, as used in this chapter, the term "streets" shall mean "public streets" unless an adjustment under Section 18.810.020.D is allowed. (Ord. 99-22)

18.810.030 Streets

A. Improvements.

1. No development shall occur unless the development has frontage or approved access to a public street.
2. No development shall occur unless streets within the development meet the standards of this chapter.
3. No development shall occur unless the streets adjacent to the development meet the standards of this chapter, provided, however, that a development may be approved if the adjacent street does not meet the standards but half-street improvements meeting the standards of this title are constructed adjacent to the development.
4. Any new street or additional street width planned as a portion of an existing street shall meet the standards of this chapter;
5. If the City could and would otherwise require the applicant to provide street improvements, the City Engineer may accept a future improvements guarantee in lieu of street improvements if one or more of the following conditions exist:
 - a. A partial improvement is not feasible due to the inability to achieve proper design standards;
 - b. A partial improvement may create a potential safety hazard to motorists or pedestrians;
 - c. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;
 - d. The improvement would be in conflict with an adopted capital improvement plan;
 - e. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets; or
 - f. Additional planning work is required to define the appropriate design standards for the street and the application is for a project which would contribute only a minor portion of the anticipated future traffic on the street.
6. The standards of this chapter include the standard specifications adopted by the City Engineer pursuant to Section 18.810.020.B.

7. The approval authority may approve adjustments to the standards of this chapter if compliance with the standards would result in an adverse impact on natural features such as wetlands, bodies of water, significant habitat areas, steep slopes, or existing mature trees. The approval authority may also approve adjustments to the standards of this chapter if compliance with the standards would have a substantial adverse impact on existing development or would preclude development on the property where the development is proposed. In approving an adjustment to the standards, the approval authority shall balance the benefit of the adjustment with the impact on the public interest represented by the standards. In evaluating the impact on the public interest, the approval authority shall consider the criteria listed in Section 18.810.030 E.1. An adjustment to the standards may not be granted if the adjustment would risk public safety.
- B. Creation of rights-of-way for streets and related purposes. Rights-of-way shall be created through the approval of a final subdivision plat or major partition; however, the Council may approve the creation of a street by acceptance of a deed, provided that such street is deemed essential by the Council for the purpose of general traffic circulation:
1. The Council may approve the creation of a street by deed of dedication without full compliance with the regulations applicable to subdivisions or major partitions if any one or more of the following conditions are found by the Council to be present:
 - a. Establishment of a street is initiated by the Council and is found to be essential for the purpose of general traffic circulation, and partitioning or subdivision of land has an incidental effect rather than being the primary objective in establishing the road or street for public use; or
 - b. The tract in which the road or street is to be dedicated is an isolated ownership of one acre or less and such dedication is recommended by the Commission to the Council based on a finding that the proposal is not an attempt to evade the provisions of this title governing the control of subdivisions or major partitions.
 2. With each application for approval of a road or street right-of-way not in full compliance with the regulations applicable to the standards, the proposed dedication shall be made a condition of subdivision and major partition approval:
 - a. The applicant shall submit such additional information and justification as may be necessary to enable the Commission in its review to determine whether or not a recommendation for approval by the Council shall be made;
 - b. The recommendation, if any, shall be based upon a finding that the proposal is not in conflict with the purpose of this title;
 - c. The Commission in submitting the proposal with a recommendation to the Council may attach conditions which are necessary to preserve the standards of this title; and
 3. All deeds of dedication shall be in a form prescribed by the City and shall name "the public," as grantee.

C. Creation of access easements. The approval authority may approve an access easement established by deed without full compliance with this title provided such an easement is the only reasonable method by which a lot large enough to develop can be created:

1. Access easements shall be provided and maintained in accordance with the Uniform Fire Code Section 10.207;
2. Access shall be in accordance with Sections 18.705.030.H and 18.705.030I.

D. Street location, width and grade. Except as noted below, the location, width and grade of all streets shall conform to an approved street plan and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets:

1. Street grades shall be approved by the City Engineer in accordance with Subsection M below; and
2. Where the location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either:
 - a. Provide for the continuation or appropriate projection of existing streets in the surrounding areas, or
 - b. Conform to a plan adopted by the Commission, if it is impractical to conform to existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.

E. Minimum rights-of-way and street widths. Unless otherwise indicated on an approved street plan, or as needed to continue an existing improved street, street right-of-way and roadway widths shall not be less than the minimum width described below. Where a range is indicated, the width shall be determined by the decision-making authority based upon anticipated average daily traffic (ADT) on the new street segment. (The City Council may adopt by resolution, design standards for street construction and other public improvements. The design standards will provide guidance for determining improvement requirements within the specified ranges.) These are presented in Table 18.810.1.

1. The decision-making body shall make its decision about desired right-of-way width and pavement width of the various street types within the subdivision or development after consideration of the following:
 - a. The type of road as set forth in the Comprehensive Plan Transportation Chapter - Functional Street Classification;
 - b. Anticipated traffic generation;
 - c. On-street parking needs;
 - d. Sidewalk and bikeway requirements;

- e. Requirements for placement of utilities;
- f. Street lighting;
- g. Drainage and slope impacts;
- h. Street tree location;
- i. Planting and landscape areas;
- j. Safety and comfort for motorists, bicyclists, and pedestrians;
- k. Access needs for emergency vehicles.

Table 18.810.1

Minimum Widths for Street Characteristics

Type of Street	Right-of-Way Width (Ft)	Paved Width (Ft)	Number of Lanes	Min. Lane Width (Ft)	On-street Parking Width (Ft)	Bike Lane Width (Ft)	Sidewalk Width (Ft)	Landscape Strip Width (Ft) (exclusive of curb)	Median Width (Ft)
Arterial	64'-128'	Varies	2 - 7 (Refer to TSP)	12'	N/A	6' (New Streets) 5'-6' (Existing Streets)	8' (Res. & Ind. Zones) 10' (Comm. Zones)	5'	12' ⁽¹⁾
Collector	58'-96'	Varies	2 - 5 (Refer to TSP)	11'	N/A	6' (New Streets) 5'-6' (Existing Streets)	6' (Res. & Ind. Zones) 8' (Comm. Zones)	5'	12' ⁽¹⁾
Neighborhood Route	50'-58'	28'-36'	2	10'	8'	5'-6'	5'-6' ⁽²⁾	5'	N/A
Local:									
Industrial/Commercial	50'	36'	2			N/A	5'-6' ⁽²⁾	5'	N/A
Local: Residential									
• Under 1500 ADT	54'/50' ⁽³⁾	32'/28' ⁽³⁾	2		8' (both sides)	N/A	5'-6' ⁽²⁾	5'	N/A
• Under 500 ADT	50'/46' ⁽³⁾	28'/24' ⁽³⁾	2		8' (one side)	N/A			
• Under 200 ADT	46'/42' ⁽³⁾	24'/20' ⁽³⁾	2		(No Parking)	N/A			
Cul-de-sac bulbs in Industrial and Commercial zones	50' radius	42' radius	N/A	N/A		N/A			N/A
Cul-de-sac bulbs in Residential zones	47' radius	40' radius	N/A	N/A		N/A		N/A	N/A
Alley: Residential	16'	16'			N/A	N/A	N/A	N/A	N/A
Alley: Business	20'	20'			N/A	N/A	N/A	N/A	N/A

(Ord. 02-33)

¹ Medians required for 5 and 7 lane roadways. They are optional for 3 lane roadways.

² Sidewalk widths for these streets shall be 5 ft with landscape strip; 6 ft if against curb (if permitted in accordance with 18.810.070.C).

³ "Skinny Street" roadway widths are permitted where cross section and review criteria are met. Refer to corresponding cross sections (Figures 18.810.3, 18.810.4 and 18.810.5) for details and conditions.

Figure 18.810.1
 Arterials Sample Cross Sections
 (Ord. 02-33)

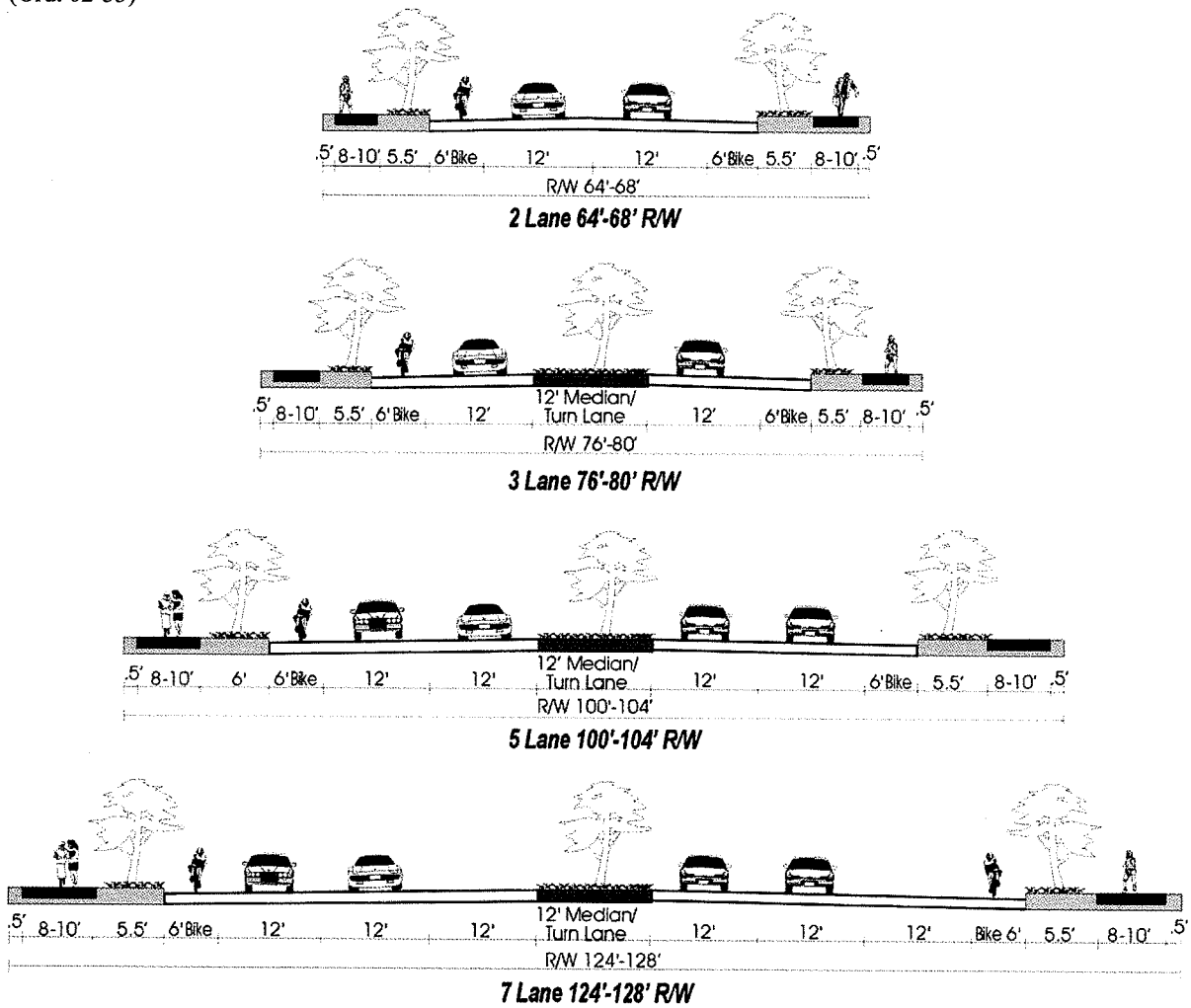


Figure 18.810.2
Collector Sample Cross Sections
(Ord. 02-33)

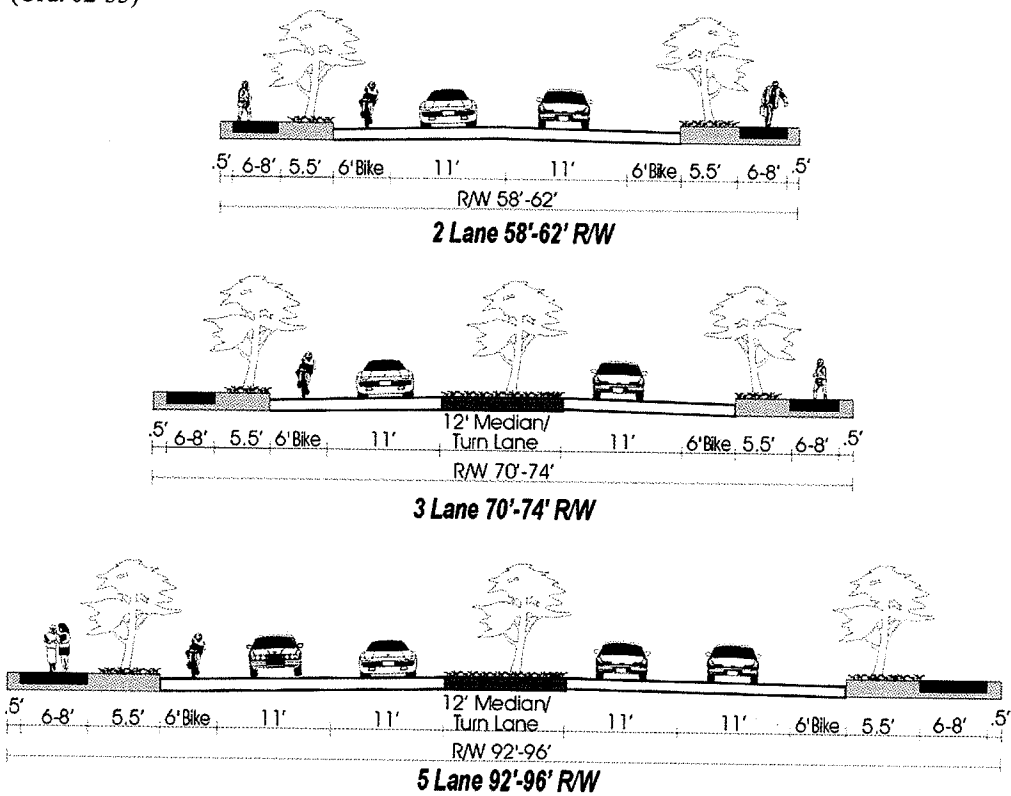


Figure 18.810.3
Neighborhood Routes
Sample Cross Sections
(Ord. 02-33)

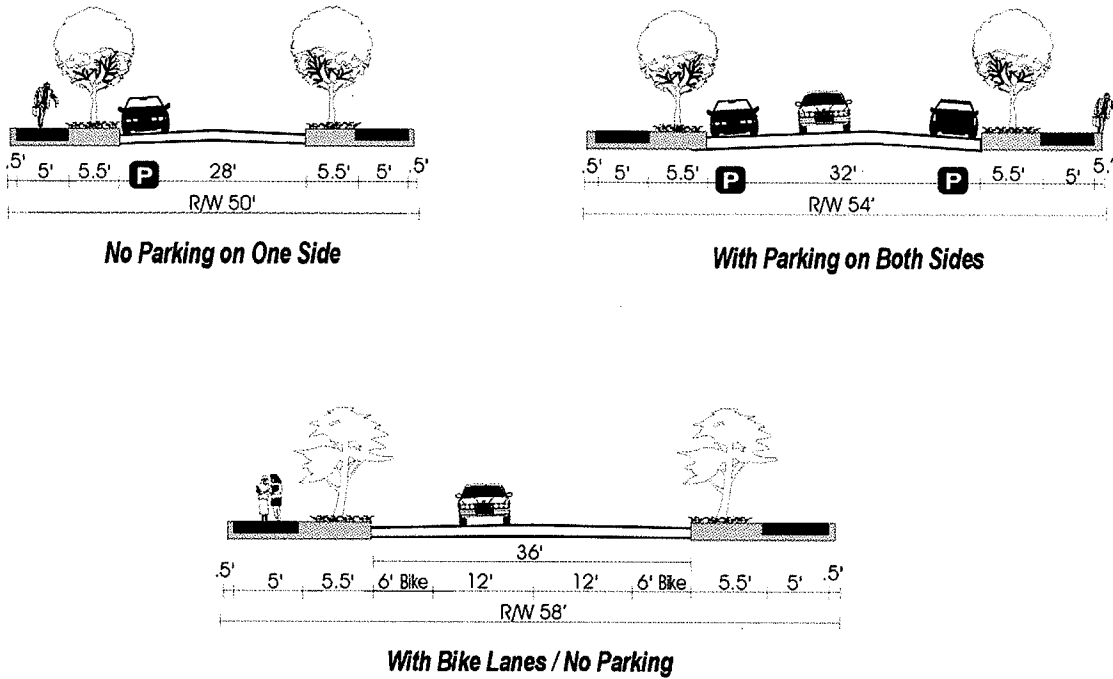


Figure 18.810.4
Local Residential Streets - <1,500 vpd
(Ord. 02-33)

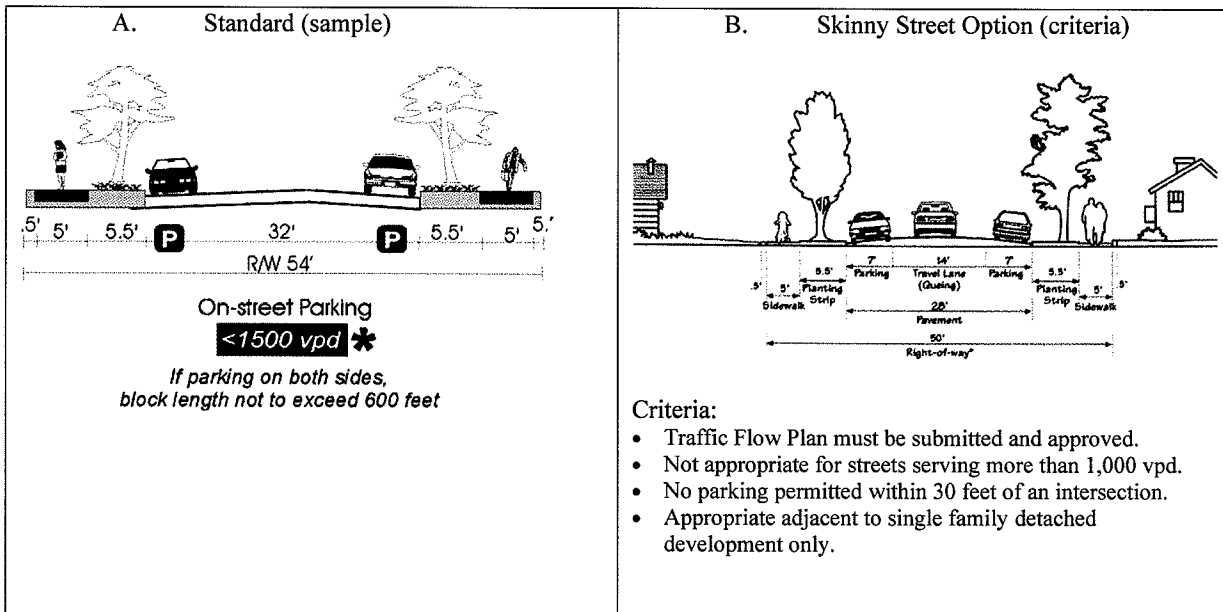


Figure 18.810.5
Local Residential Streets < 500 vpd
(Ord. 02-33)

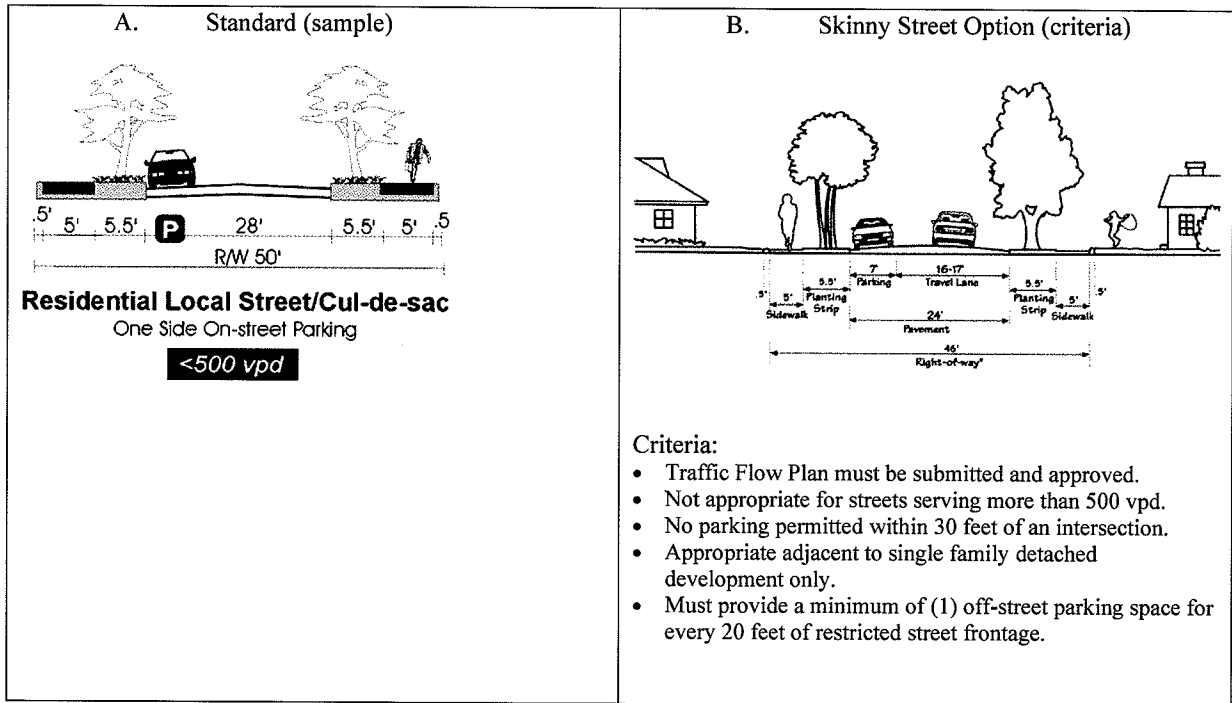
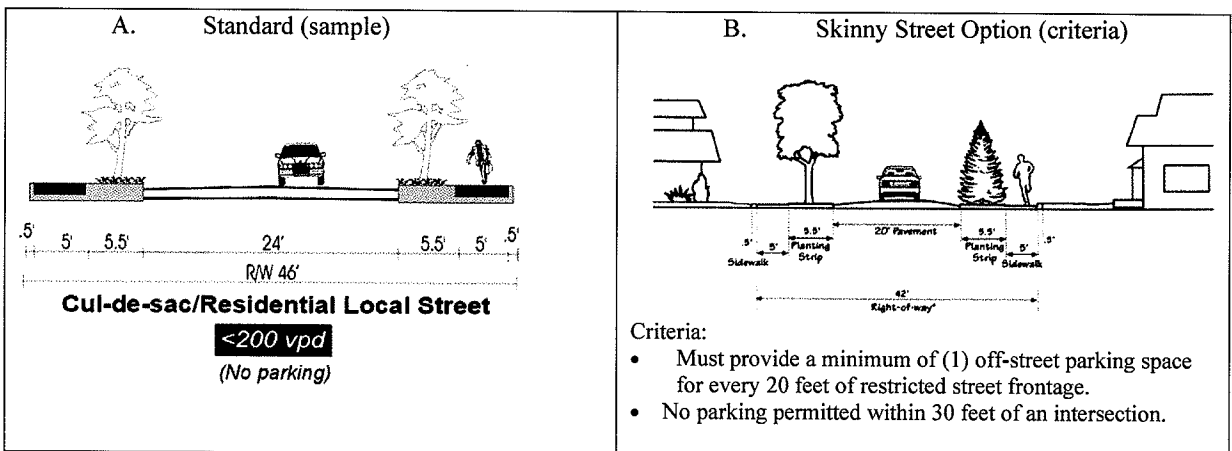


Figure 18.810.6
Local Residential Street < 200 vpd
(Ord.02-33)



F. Future street plan and extension of streets.

1. A future street plan shall:

- a. Be filed by the applicant in conjunction with an application for a subdivision or partition. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within 530 feet surrounding and adjacent to the proposed land division. At the applicant's request, the City may prepare a future streets proposal. Costs of the City preparing a future streets proposal shall be reimbursed for the time involved. A street proposal may be modified when subsequent subdivision proposals are submitted.
- b. Identify existing or proposed bus routes, pullouts or other transit facilities, bicycle routes and pedestrian facilities on or within 530 feet of the site.

2. Where necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and

- a. These extended streets or street stubs to adjoining properties are not considered to be culs-de-sac since they are intended to continue as through streets at such time as the adjoining property is developed.
- b. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost.
- c. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub street in excess of 150 feet in length.

G. Street spacing and access management. Refer to 18.705.030.H.

H. Street alignment and connections.

1. Full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.
2. All local , neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is considered precluded when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

3. Proposed street or street extensions shall be located to provide direct access to existing or planned transit stops, commercial services, and other neighborhood facilities, such as schools, shopping areas and parks.
 4. All developments should provide an internal network of connecting streets that provide short, direct travel routes and minimize travel distances within the development.
- I. Intersection angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle, but in no case shall the angle be less than 75° unless there is special intersection design, and:
1. Streets shall have at least 25 feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance;
 2. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle; and
 3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet.
- J. Existing rights-of-way. Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or development.
- K. Partial street improvements. Partial street improvements resulting in a pavement width of less than 20 feet; while generally not acceptable, may be approved where essential to reasonable development when in conformity with the other requirements of these regulations, and when it will be practical to require the improvement of the other half when the adjoining property developed.
- L. Culs-de-sacs. A cul-de-sac shall be no more than 200 feet long shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:
1. All culs-de-sac shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
 2. The length of the cul-de-sac shall be measured from the centerline intersection point of the two streets to the radius point of the bulb..
 3. If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.
- M. Street names. No street name shall be used which will duplicate or be confused with the names of existing streets in Washington County, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area and as approved by the City Engineer.

N. Grades and curves.

1. Grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet), and
2. Centerline radii of curves shall be as determined by the City Engineer.

O. Curbs, curb cuts, ramps, and driveway approaches. Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in this chapter and Section 15.04.080; and:

1. Concrete curbs and driveway approaches are required; except
2. Where no sidewalk is planned, an asphalt approach may be constructed with City Engineer approval; and
3. Asphalt and concrete driveway approaches to the property line shall be built to City configuration standards.

P. Streets adjacent to railroad right-of-way. Wherever the proposed development contains or is adjacent to a railroad right-of-way, provision shall be made for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land. The distance shall be determined with due consideration at cross streets or the minimum distance required for approach grades and to provide sufficient depth to allow screen planting along the railroad right-of-way in nonindustrial areas.

Q. Access to arterials and collectors. Where a development abuts or is traversed by an existing or proposed arterial or collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

1. A parallel access street along the arterial or collector;
2. Lots of suitable depth abutting the arterial or collector to provide adequate buffering with frontage along another street;
3. Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial or collector; or
4. Other treatment suitable to meet the objectives of this subsection;
5. If a lot has access to two streets with different classifications, primary access should be from the lower classification street.

R. Alleys, public or private.

1. Alleys shall be no less than 20 feet in width. In commercial and industrial districts, alleys shall be provided unless other permanent provisions for access to off-street parking and loading facilities

are made.

2. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.
- S. Survey monuments. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be reestablished and protected.
- T. Private streets.
1. Design standards for private streets shall be established by the City Engineer; and
 2. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement.
 3. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.
- U. Railroad crossings. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution shall be determined by the public works Director and approved by the Commission.
- V. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs shall be the responsibility of the developer.
- W. Mailboxes. Joint mailbox facilities shall be provided in all residential developments, with each joint mailbox serving at least two dwelling units.
1. Joint mailbox structures shall be placed adjacent to roadway curbs;
 2. Proposed locations of joint mailboxes shall be designated on a copy of the preliminary plat or development plan, and shall be approved by the City Engineer/US Post Office prior to final plan approval; and
 3. Plans for the joint mailbox structures to be used shall be submitted for approval by the City Engineer/US Post Office prior to final approval.
- X. Traffic signals. The location of traffic signals shall be noted on approved street plans. Where a proposed street intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed. The cost shall be included as a condition of development.
- Y. Street light standards. Street lights shall be installed in accordance with regulations adopted by the City's direction.
- Z. Street name signs. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.

AA. Street cross-sections. The final lift of asphalt concrete pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway and within one year of the conditional acceptance of the roadway unless otherwise approved by the City Engineer. The final lift shall also be placed no later than when 90% of the structures in the new development are completed or three years from the commencement of initial construction of the development, whichever is less.

1. Sub-base and leveling course shall be of select crushed rock;
2. Surface material shall be of Class C or B asphaltic concrete;
3. The final lift shall be placed on all new construction roadways prior to City final acceptance of the roadway; however, not before 90% of the structures in the new development are completed unless three years have elapsed since initiation of construction in the development;
4. The final lift shall be Class C asphaltic concrete as defined by A.P.W.A. standard specifications; and
5. No lift shall be less than 1-1/2 inches in thickness. (Ord. 99-22)

AB. Traffic calming. When, in the opinion of the City Engineer, the proposed development will create a negative traffic condition on existing neighborhood streets, such as excessive speeding, the developer may be required to provide traffic calming measures. These measures may be required within the development and/or offsite as deemed appropriate. As an alternative, the developer may be required to deposit funds with the City to help pay for traffic calming measures that become necessary once the development is occupied and the City Engineer determines that the additional traffic from the development has triggered the need for traffic calming measures. The City Engineer will determine the amount of funds required, and will collect said funds from the developer prior to the issuance of a certificate of occupancy, or in the case of subdivision, prior to the approval of the final plat. The funds will be held by the City for a period of five (5) years from the date of issuance of certificate of occupancy, or in the case of a subdivision, the date of final plat approval. Any funds not used by the City within the five-year time period will be refunded to the developer.

AC. Traffic study.

1. A traffic study shall be required for all new or expanded uses or developments under any of the following circumstances:
 - a. when they generate a 10% or greater increase in existing traffic to high collision intersections identified by Washington County.
 - b. Trip generations from development onto the City street at the point of access and the existing ADT fall within the following ranges:

Existing ADT	ADT to be added by development
0-3,000 vpd	2,000 vpd
3,001-6,000 vpd	1,000vpd
>6,000 vpd	500 vpd or more

- c. If any of the following issues become evident to the City engineer:
 - (1) High traffic volumes on the adjacent roadway that may affect movement into or out of the site
 - (2) Lack of existing left-turn lanes onto the adjacent roadway at the proposed access drive(s)
 - (3) Inadequate horizontal or vertical sight distance at access points
 - (4) The proximity of the proposed access to other existing drives or intersections is a potential hazard
 - (5) The proposal requires a conditional use permit or involves a drive-through operation
 - (6) The proposed development may result in excessive traffic volumes on adjacent local streets.
- 2. In addition, a traffic study may be required for all new or expanded uses or developments under any of the following circumstances:
 - a. when the site is within 500 feet of an ODOT facility and/or
 - b. trip generation from a development adds 300 or more vehicle trips per day to an ODOT facility and/or
 - c. trip generation from a development adds 50 or more peak hour trips to an ODOT facility. (Ord. 02-33)

18.810.040 Blocks

- A. Block design. The length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.
- B. Block Sizes.
 - 1. The perimeter of blocks formed by streets shall not exceed 2,000 feet measured along the centerline of the streets except:
 - a. Where street location is precluded by natural topography, wetlands, significant habitat areas or ~~other~~ bodies of water, or pre-existing development; or
 - b. For blocks adjacent to arterial streets, limited access highways, collectors or railroads.
 - c. For non-residential blocks in which internal public circulation provides equivalent access.
 - 2. Bicycle and pedestrian connections on public easements or right-of-ways shall be provided when

full street connection is exempted by B.1 above. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code. (Ord. 02-33)

18.810.050 Easements

- A. Easements. Easements for sewers, drainage, water mains, electric lines or other public utilities shall be either dedicated or provided for in the deed restrictions, and where a development traversed by a watercourse, or drainageway, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the watercourse.
- B. Utility easements. A property owner proposing a development shall make arrangements with the City, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The City's standard width for public main line utility easements shall be 15 feet unless otherwise specified by the utility company, applicable district, or City Engineer.

18.810.060 Lots

- A. Size and shape. Lot size, width, shape and orientation shall be appropriate for the location of the development and for the type of use contemplated, and:
 - 1. No lot shall contain part of an existing or proposed public right-of-way within its dimensions;
 - 2. The depth of all lots shall not exceed 2-1/2 times the average width, unless the parcel is less than 1-1/2 times the minimum lot size of the applicable zoning district;
 - 3. Depth and width of properties zoned for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.
- B. Lot frontage. Each lot shall abut upon a public or private street, other than an alley, for a width of at least 25 feet unless the lot is created through a minor land partition in which case Subsection 18.162.050 (C) applies, or unless the lot is for an attached single-family dwelling unit, in which case the lot frontage shall be at least 15 feet.
- C. Through lots. Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arterials or to overcome specific disadvantages of topography and orientation, and:
 - 1. A planting buffer at least ten feet wide is required abutting the arterial rights-of-way; and
 - 2. All through lots shall provide the required front yard setback on each street.
- D. Lot side lines. The side lines of lots, as far as practicable, shall be at right angles to the street upon which the lots front.
- E. Large lots. In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the Commission may require that the lots be of such size and shape, and be so divided into building sites, and contain such site restrictions as will provide for the extension and opening of

streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size. The land division shall be denied if the proposed large development lot does not provide for the future division of the lots and future extension of public facilities.

18.810.070 Sidewalks

- A. Sidewalks. All industrial streets and private streets shall have sidewalks meeting City standards along at least one side of the street. All other streets shall have sidewalks meeting City standards along both sides of the street. A development may be approved if an adjoining street has sidewalks on the side adjoining the development, even if no sidewalk exists on the other side of the street
- B. Requirement of developers
 - 1. As part of any development proposal, or change in use resulting in an additional 1,000 vehicle trips or more per day, an applicant shall be required to identify direct, safe (1.25 x the straight line distance) pedestrian routes within 1/2 mile of their site to all transit facilities and Neighborhood Activity Centers (schools, parks, libraries, etc.). In addition, the developer may be required to participate in the removal of any gaps in the pedestrian system off-site if justified by the development.
 - 2. If there is an existing sidewalk, on the same side of the street as the development, within 300 feet of a development site in either direction, the sidewalk shall be extended from the site to meet the existing sidewalk, subject to rough proportionality (even if the sidewalk does not serve a neighborhood activity center).
- C. Planter strip requirements. A planter strip separation of at least five feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities, there are significant natural features (large trees, water features, significant habitat areas, etc) that would be destroyed if the sidewalk were located as required, or where there are existing structures in close proximity to the street (15 feet or less). Additional consideration for exempting the planter strip requirement may be given on a case by case basis if a property abuts more than one street frontage.
- D. Sidewalks in central business district. In the central business district, sidewalks shall be 10 feet in width, and:
 - 1. All sidewalks shall provide a continuous unobstructed path; and
 - 2. The width of curbside sidewalks shall be measured from the back of the curb.
- E. Maintenance. Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.
- F. Application for permit and inspection. If the construction of a sidewalk is not included in a performance bond of an approved subdivision or the performance bond has lapsed, then every person, firm or corporation desiring to construct sidewalks as provided by this chapter, shall, before entering upon the work or improvement, apply for a street opening permit to the Engineering department to so build or construct:

1. An occupancy permit shall not be issued for a development until the provisions of this section are satisfied.
 2. The City Engineer may issue a permit and certificate allowing temporary noncompliance with the provisions of this section to the owner, builder or contractor when, in his opinion, the construction of the sidewalk is impractical for one or more of the following reasons:
 - a. Sidewalk grades have not and cannot be established for the property in question within a reasonable length of time;
 - b. Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;
 - c. Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street; or
 - d. Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible; and
 3. The City Engineer shall inspect the construction of sidewalks for compliance with the provision set forth in the standard specifications manual.
- G. Council initiation of construction. In the event one or more of the following situations are found by the Council to exist, the Council may adopt a resolution to initiate construction of a sidewalk in accordance with City ordinances:
1. A safety hazard exists for children walking to or from school and sidewalks are necessary to eliminate the hazard;
 2. A safety hazard exists for pedestrians walking to or from a public building, commercial area, place of assembly or other general pedestrian traffic, and sidewalks are necessary to eliminate the hazard;
 3. 50% or more of the area in a given block has been improved by the construction of dwellings, multiple dwellings, commercial buildings or public buildings and/or parks; and
 4. A criteria which allowed noncompliance under Section E.1.b above no longer exists and a sidewalk could be constructed in conformance with City standards. (Ord. 02-33, Ord. 99-22)

18.810.080 Public Use Areas

A. Dedication requirements.

1. Where a proposed park, playground or other public use shown in a development plan adopted by the City is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system.

2. Where considered desirable by the Commission in accordance with adopted comprehensive plan policies, and where a development plan of the City does not indicate proposed public use areas, the Commission may require the dedication or reservation of areas within the subdivision or sites of a character, extent and location suitable for the development of parks or other public use, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system.
- B. Acquisition by public agency. If the developer is required to reserve land area for a park, playground, or other public use, such land shall be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the subdivider. (Ord. 99-22)

18.810.090 Sanitary Sewers

- A. Sewers required. Sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.
- B. Sewer plan approval. The City Engineer shall approve all sanitary sewer plans and proposed systems prior to issuance of development permits involving sewer service.
- C. Over-sizing. Proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.
- D. Permits denied. Development permits may be restricted by the Commission or Hearings Officer where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.

18.810.100 Storm Drainage

- A. General provisions. The Director and City Engineer shall issue a development permit only where adequate provisions for storm water and flood water runoff have been made, and:
1. The storm water drainage system shall be separate and independent of any sanitary sewerage system;
 2. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street; and
 3. Surface water drainage patterns shall be shown on every development proposal plan.
- B. Easements. Where a development is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance.

- C. Accommodation of upstream drainage. A culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development, and:
1. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments).
- D. Effect on downstream drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments).

18.810.110 Bikeways and Pedestrian Pathways

- A. Bikeway extension.
1. As a standard, bike lanes shall be required along all Arterial and Collector routes and where identified on the City's adopted bicycle plan in the Transportation System Plan (TSP).
 2. Developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or rights-of-way, provided such dedication is directly related to and roughly proportional to the impact of the development.
 3. Any new street improvement project shall include bicycle lanes as required in this document and on the adopted bicycle plan.
- B. Cost of construction. Development permits issued for planned unit developments, conditional use permits, subdivisions and other developments which will principally benefit from such bikeways shall be conditioned to include the cost of construction of bikeway improvements in an amount roughly proportional to the impact of the development.
- C. Minimum width.
1. Minimum width for bikeways within the roadway is five feet per bicycle travel lane.
 2. Minimum width multi-use paths separated from the road is ten (10) feet. The width may be reduced to eight (8) feet if there are environmental or other constraints.
 3. The minimum width for pedestrian only off-street paths is five (5) feet.
 4. Design standards for bike and pedestrian-ways shall be determined by the City Engineer. (Ord. 02-33, Ord. 99-22)

18.810.120 Utilities

- A. Underground utilities. All utility lines including, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:
1. The developer shall make all necessary arrangements with the serving utility to provide the underground services;
 2. The City reserves the right to approve location of all surface mounted facilities;
 3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
 4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
- B. Information on development plans. The applicant for a development shall show on the development plan or in the explanatory information, easements for all underground utility facilities, and:
1. Plans showing the location of all underground facilities as described herein shall be submitted to the City Engineer for review and approval; and
 2. Care shall be taken in all cases to ensure that above ground equipment does not obstruct vision clearance areas for vehicular traffic.
- C. Exception to under-grounding requirement.
1. The developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of undergrounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which undergrounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities.
 2. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay the fee in-lieu of undergrounding.
 3. Properties within the CBD zoning district shall be exempt from the requirements for undergrounding of utility lines and from the fee in-lieu of undergrounding.
 4. The exceptions in Subsections 1 through 3 of this section shall apply only to existing utility lines. All new utility lines shall be placed underground.
- D. Fee in-lieu of undergrounding.

1. The City Engineer shall establish utility service areas in the City. All development which occurs within a utility service area shall pay a fee in-lieu of undergrounding for utilities if the development does not provide underground utilities, unless exempted by this code.
2. The City Engineer shall establish the fee by utility service area which shall be determined based upon the estimated cost to underground utilities within each service area. The total estimated cost for undergrounding in a service area shall be allocated on a front-foot basis to each party within the service area. The fee due from any developer shall be calculated based on a front-foot basis.
3. A developer shall receive a credit against the fee for costs incurred in the undergrounding of existing overhead utilities. The City Engineer shall determine the amount of the credit, after review of cost information submitted by the applicant with the request for credit.
4. The funds collected in each service area shall be used for undergrounding utilities within the City at large. The City Engineer shall prepare and maintain a list of proposed undergrounding projects which may be funded with the fees collected by the City. The list shall indicate the estimated timing and cost of each project. The list shall be submitted to the City Council for their review and approval annually.

18.810.130 Cash or Bond Required

- A. Guarantee. All improvements installed by the developer shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City Council.
- B. Cash deposit or bond. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer.
- C. Compliance requirements. The cash or bond shall comply with the terms and conditions of Section 18.430.090.

18.810.140 Monuments

- A. Replacement required. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.

18.810.150 Installation Prerequisite

- A. Approval required. No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued.
- B. Permit fee. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by Council resolution.

18.810.160 Installation Conformation

- A. Conformance required. In addition to other requirements, improvements installed by the developer

either as a requirement of these regulations or at his own option, shall conform to the requirements of this chapter and to improvement standards and specifications followed by the City.

- B. Adopted installation standards. The Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A., and Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments) shall be a part of the City's adopted installation standard(s); other standards may also be required upon recommendation of the City Engineer.

18.810.170 Plan Check

- A. Submittal requirements. Work shall not begin until construction plans and construction estimates have been submitted and checked for adequacy and approved by the City Engineer in writing. The developer can obtain detailed information about submittal requirements from the City Engineer.
- B. Compliance. All such plans shall be prepared in accordance with requirements of the City.

18.810.180 Notice to City

- A. Commencement. Work shall not begin until the City has been notified in advance.
- B. Resumption. If work is discontinued for any reason, it shall not be resumed until the City is notified.

18.810.190 City Inspection

- A. Inspection of improvements. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

18.810.200 Engineer's Certification

- A. Written certification required. The developer's engineer shall provide written certification of a form provided by the City that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, and are of high grade, prior to City acceptance of the subdivision's improvements or any portion thereof for operation and maintenance.

18.810.210 Completion Requirements (To be completed.)■

Agenda Item: 5.1

Hearing Date: October 16, 2006 Time: 7:00 PM

**STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY**FILE NAME:** HABITAT-FRIENDLY DEVELOPMENT PROVISIONS

CASE NOS: **Comprehensive Plan Amendment (CPA)** **CPA 2006-00001**
 Development Code Amendment (DCA) **DCA 2006-00004**

APPLICANT: City of Tigard
 13125 SW Hall Boulevard
 Tigard, OR 97223

PROPOSAL: Amendments to the Tigard Comprehensive Plan (Volume I) and Community Development Code (Sections 18.360, 18.370, 18.705, 18.715, 18.765, 18.775, 18.810) in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods) to adopt the proposed Significant Habitat Areas Map and to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program aimed at encouraging the use of habitat-friendly development practices. The proposed amendments will not result in increased development restrictions but will give developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will remove barriers to, and provide code flexibility for, development that incorporates habitat-friendly techniques.

LOCATION: Citywide

ZONING: CBD, C-G, C-P, I-H, I-L, I-P, MUC, MUE, MUE-1, MUE-2, MUR-1, MUR-2, R-1, R-2, R-3.5, R-4.5, R-7, R-12, R-25.

COMP PLAN: Commercial, Industrial, Mixed Use, Residential.

**APPLICABLE
REVIEW**

CRITERIA: Community Development Code Chapters 18.360, 18.370, 18.380, 18.390, 18.705, 18.715, 18.765, 18.775 and 18.810; Comprehensive Plan Policies 2, 3 & 4; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 5 and 6.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission find that this request for Comprehensive Plan Amendment and Development Code Amendment meets the necessary approval criteria. Therefore, staff recommends APPROVAL of the CPA 2006-00001 and DCA 2006-00004 according to the findings found in Section IV of this report.

SECTION III. BACKGROUND INFORMATION

Project History

Statewide Planning Goal 5 and Metro's Regional Goal 5 Program

One of the 19 statewide planning goals which form the framework for local planning programs, Goal 5 aims to protect natural resources and conserve scenic and historic areas and open spaces. Under Goal 5, Metro is authorized to adopt as part of their Urban Growth Management Functional Plan (Functional Plan), regional programs to address all applicable requirements of Goal 5 and State Administrative Rules for designated "regional resources".

Goal 5 establishes three basic steps to comply with its standard inventory process, which include: conducting an inventory and map of significant resources; analyzing the economic, social, environmental and energy (ESEE) impacts of protecting inventoried resources; and, developing a program to implement the ESEE decision to allow, limit or prohibit conflicting uses.

In 2002, Metro completed the first step by completing an inventory for Regionally Significant Riparian Corridors and Wildlife Habitat. As part of this effort, Metro established criteria to define and identify regionally significant riparian corridors and wildlife habitat.

Tualatin Basin Fish and Wildlife Habitat Program

Also in 2002, an alliance was formed between local jurisdictions within Washington County, known as the Tualatin Basin Partners for Natural Places (Partners), working with the Portland Metropolitan Service District (Metro), Tualatin Hills Parks and Recreation District and Clean Water Services, to develop a basin-specific approach to protecting fish and wildlife habitat. Councilor Sally Harding represents the City of Tigard on the Tualatin Basin Natural Resource Coordinating Committee (TBNRCC), comprised of elected officials, while Associate Planner Denver Igarta serves on the Steering Committee, which is comprised technical staff.

The Tualatin Basin partnership initiated the second step of analyzing the environmental, social, economic, and energy (ESEE) consequences of allowing, limiting or prohibiting (ALP) conflicting uses in areas identified in Metro's inventory of regionally significant riparian corridors and wildlife habitat. The ESEE analysis was completed in July 2004 and resulted in the Tualatin Basin ALP Map, which forms the basis for the proposed Significant Habitat Areas Map.

Finally, the Tualatin Basin Fish & Wildlife Habitat Program was developed to address the third required step by implementing the recommendations of the ESEE analysis. The TBNRCC voted to send on to Metro their Goal 5 Program for improving the environmental health of the Tualatin Basin. In September 2005, Metro incorporated the Tualatin Basin Program as part of the regional Nature in Neighborhoods Program (Title 13). Under an intergovernmental agreement between the Tualatin Basin Partners and Metro, local jurisdictions must now implement applicable elements of the Basin program. Recently, the Partners formulated a strategy for local implementation of program elements. The Program Implementation Report prepared by the Partners recommends development code amendments for local jurisdictions to incorporate habitat-friendly development provisions and remove regulatory barriers. The amendments being proposed were identified based on an analysis of these recommendations and existing City of Tigard regulations.

Proposal Description

The primary intent of the proposed changes is to encourage habitat-friendly development by implementing recommendations of the Tualatin Basin Fish & Wildlife Habitat Program in compliance with Statewide Planning Goal 5 and Metro's Nature in Neighborhoods Program (Title 13).

Amendments are being proposed to the Tigard Comprehensive Plan and Community Development Code to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program by adopting the proposed Significant Habitat Areas Map and habitat-friendly development provisions. The proposed amendments will not result in increased development restrictions but will give property owners and developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will also remove barriers to development that incorporates recommended habitat-friendly techniques.

SECTION IV SUMMARY OF REPORT

- ❖ Applicable criteria, findings and conclusions
 - Tigard Community Development Code
 - Chapter 18.360
 - Chapter 18.370
 - Chapter 18.380
 - Chapter 18.390
 - Chapter 18.705
 - Chapter 18.715
 - Chapter 18.765
 - Chapter 18.775
 - Chapter 18.810
 - Applicable Comprehensive Plan Policies
 - Policy 2, Policy 3 & Policy 4
 - Applicable Metro Standards
 - Title 3 & Title 13
 - Statewide Planning Goals
 - Goals 1, 2, 5 & 6
- ❖ City Department and outside agency comments

SECTION V. APPLICABLE CRITERIA AND FINDINGS

CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Chapter 18.360. Site Development Review

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.360.010 Purpose

A. Promote general welfare. The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the City.

B. General purposes. It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the City of Tigard:

C. Environmental enhancement. To prevent the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping, it is necessary:

The proposed amendments are aimed at encouraging development that incorporates habitat-friendly methods and techniques as part of site planning considerations. The proposal directly addresses the objective stated in 18.360.010.C. of preventing “the erosion of natural beauty, the lessening of environmental amenities, the dissipation of both usefulness and function, and to encourage additional landscaping.” In particular, the proposed amendment to 18.360.090.A.2.c. would complement the purpose statement “to encourage the innovative use of materials, methods and techniques” by encourage developers to incorporate techniques for reducing site hydrology and fish and wildlife habitat impacts into their site planning.

Chapter 18.370. Variances and adjustments

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.370.010 Variances

A. Purpose. The purpose of this section is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific property, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.

The proposed amendments will result in adoption of the proposed “Significant Habitat Areas Map” which depicts the inventory of “significant” riparian and upland habitat areas. The inventory process factored in the economic, social, environmental and energy (ESEE) impacts of protecting inventoried resources. Based on this analysis a program was developed to implement the ESEE decision by proposing amendments to local regulations. The proposed amendments will offer greater regulator flexibility to encourage developers to give special consideration to “significant habitat areas” located on their properties.

Chapter 18.380. Zoning Map and Text Amendments:

18.380.020 Legislative Amendments to this Title and Map

A. Legislative amendments. Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

The proposed amendments to the Tigard Comprehensive Plan and Community Development Code would establish rules and regulations to be applied generally to all similarly affected properties (with inventoried significant habitat) throughout the City of Tigard; and therefore, the application is being processed as a Type IV Procedure, Legislative Amendment, as governed by Section 18.390.060.G..

Chapter 18.390. Decision- Making Procedures

18.390.020.B.4. Type IV Procedure. Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy. Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

The proposed amendments to the Tigard Comprehensive Plan and Community Development Code will

be reviewed under the Type IV procedure as detailed in the Section 18.390.060.G. In accordance with this section, the amendments will initially be considered by the Planning Commission with City Council making the final decision.

18.390.060G. Decision-making considerations. The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;
2. Any federal or state statutes or regulations found applicable;
3. Any applicable METRO regulations;
4. Any applicable comprehensive plan policies; and
5. Any applicable provisions of the City's implementing ordinances.

The findings presented in this staff report address the review criteria listed above as being applicable to the proposed amendments to the Comprehensive Plan and Development Code.

Chapter 18.705. Access, Egress, and Circulation

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.705.010.A. Purpose. The purpose of this chapter is to establish standards and regulations for safe and efficient vehicle access and egress on a site and for general circulation within the site.

The proposed amendment to this chapter explicitly adds pervious paving surfaces to the list of hard surfaced materials for paving required walkways. The provision requires any pervious paving surface to be designed and maintained to remain well-drained to ensure the long-term function of the walkway to provide safe and efficient access and circulation.

Chapter 18.715. Density Computations

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.715.010.A. Purpose. The purpose of this chapter is to implement the comprehensive plan by establishing the criteria for determining the number of dwelling units permitted.

Currently, the Tigard Development Code Section 18.715.030 allows for 25% of the unbuildable area within sensitive lands (i.e. 100-yr. floodplain, steep slopes, drainageways) to be transferred to the remaining buildable land areas (not to exceed 125% of the maximum permitted by the applicable comprehensive plan designation). The Planned Development Chapter of the Code allows for a density bonus of up to 10% as an incentive to increase or enhance open space, architectural character and/ or site variation incorporated into the development. In addition, the Tree Removal Chapter allows for a density bonus of up to 20 % as an incentive for retaining existing canopy cover (trees over 12 inches in caliper).

At their September 25, 2006, work session, the Planning Commission considered the Tualatin Basin recommendation to allow "all development potential to be transferred" from qualified habitat areas. The Planning Commissioners expressed concerns that the lack of adequate design criteria for, and the proposed administrative-level approval of, density transfers may result in development which is incompatible with the surrounding neighborhood. They conferred that design standards for transferring density, and perhaps a higher-level of review, may be required to ensure an adequate degree of compatibility. The Planning Commission decided to not support an amendment to allow density transfers at this time; rather, to return to this issue at a later date, when more time can be devoted to the development of appropriate design review standards and procedures.

Applicable comprehensive plan policies are addressed within this staff report.

Chapter 18.765. Off-Street Parking and Loading Requirements

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.765.010 Purpose

B. Adequate capacity. These regulations are also intended to establish vehicle parking areas which have adequate capacity and which are appropriately located and designed to minimize any hazardous conditions on the site and at access points.

The proposed amendments to this chapter explicitly add pervious paving surfaces to the list of appropriate surface materials for paving access drives, and vehicle and bicycle parking spaces. The provisions require any pervious paving surface to be designed and maintained to remain well-drained to ensure the long-term function and safe condition of the surface.

Chapter 18.775. Sensitive Lands

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.775.010 Purpose

- A. Maintain integrity of rivers, streams, and creeks.**
- B. Implement comprehensive plan and floodplain management program.**
- C. Implement Clean Water Service(CWS) Design and Construction Standards.**
- D. Implement the Metro Urban Growth Management Functional Plan.**
- E. Implement Statewide Planning Goal 5 (Natural Resources).**
- F. Protect public health, safety, and welfare.**
- G. Location.**

As described in Section III (Background) of this report, the *Tualatin Basin Fish and Wildlife Habitat Program* was developed as a basin-specific approach to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). In addition, the Tualatin Basin program was developed to complement Clean Water Services Design and Constructions Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin. The amendments proposed are intended to implement the Basin-wide program by adopting habitat-friendly development provisions aimed at reducing the detrimental impacts of development on fish and wildlife habitat within the City of Tigard.

The inventory of significant fish and wildlife habitat was conducted in accordance with Oregon Administrative Rule 660-023 Procedures and Requirements for Complying with Goal 5. Based on the findings of an economic, social, environmental and energy (ESEE) analysis, the Tualatin Basin assigned a different "limit" decision to areas and mapped the *strictly*, *moderately* and *lightly* limit areas. The proposed Significant Habitat Areas map delineates the "general location" of each "limit" classification, and the proposed delineation methodology provides procedures for verifying the precise boundaries of the inventoried habitat areas. The proposed amendments would adopt the proposed "Significant Habitat Areas Map" and add "significant habitat areas" to the list of sensitive lands potentially unsuitable for development.

Applicable comprehensive plan policies are addressed within this staff report.

Chapter 18.810. Street and Utility Improvement Standards

This chapter does not include review criteria relevant to the proposed amendments. Since revisions to this chapter are being proposed, the purposes of the chapter were reviewed to determine consistency with the proposed amendments.

18.810.010. Purpose. The purpose of this chapter is to provide construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage.

18.810.030.A.7. The approval authority may approve adjustments to the standards of this chapter if compliance with the standards would result in an adverse impact on natural features such as wetlands, steep slopes, or existing mature trees.

The Streets Section (18.810.030) of this chapter provides for approval of adjustments if compliance with street standards would result in adverse impact to natural features. The proposed amendments would adopt the proposed "Significant Habitat Areas Map", add "significant habitat areas" to the list of sensitive lands, and provide for flexibility in development standards to minimize impacts on resource areas. The proposed changes to this chapter would add inventoried "significant habitat areas" to the list of natural features where street standards may be adjusted.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendments satisfy the applicable review criteria and are consistent with the purposes of the chapters being amended within the Tigard Community Development Code.

CITY OF TIGARD COMPREHENSIVE PLAN POLICIES

A review of the comprehensive plan identified the following relevant policies for the proposed amendments:

Policy 2 – Citizen Involvement

2.1.1 The City shall maintain an ongoing citizen involvement program and shall ensure that citizens will be provided an opportunity to be involved in all phases of the planning process.

Since 2002, the Tualatin Basin Partners (including the City of Tigard) had been engaged in a lengthy series of outreach efforts through the inventory, analysis, and program development phases of their cooperative effort. Regular steering committee and coordinating committee meetings held monthly were open to the public. A total of nine open houses were held as part of the Tualatin Basin effort (three for each of the three phases – inventory, analysis and program), and three public hearings were also held. In September 2006, a stakeholder dialog was held with individuals representing the environmental and development communities. In addition, the Partners produced a project website, newsletters and information booths (at various events) and held CPO (Citizen Participation Organization) and panel discussions. Throughout the process, program status updates were posted on the City of Tigard website.

As part of the Comprehensive Plan Amendment process, public notices were sent to 2,674 potentially affected property owners informing them of the proposed amendments and public hearings scheduled with the Planning Commission and the City Council. An information sheet was enclosed in the mailing to provide a brief background and overview of the proposed changes, as well as, contact details to obtain more information. In addition, notice of the public hearing was published in the September 28, 2006, issue of the Tigard Times.

Policy 3 – Natural Features and Open Space

3.4 Natural Areas

3.4.1 The City shall designate, in accordance with Goal 5, the following as areas of significant environmental concern.

c. Areas valued for their fragile character as habitats for plants, animal or aquatic life, or having endangered plant or animal species, or specific natural features, valued for the need to protect natural areas.

The proposed amendments address the policy to designate “significant” habitats and will result in adoption of the inventory of fish and wildlife habitat areas within the City of Tigard. The proposed “Significant Habitat Areas Map” is based on the inventory of regionally significant riparian corridors and wildlife habitat completed by Metro in 2002. As part of this effort, Metro evaluated habitat sites based on two sets of criteria, one for riparian habitat and one for upland wildlife habitat. Habitat areas were ranked based on their relative health and importance for providing benefits to fish and wildlife. The inventory also factored in data on sensitive species sighting locations, sensitive bird sites, and wildlife species and habitats of concern, as well as the habitat needs of sensitive wildlife and the amount of potential habitat available.

The inventory followed the steps outlined by Statewide Goal 5 including an assessment of economic, social, environmental and energy (ESEE) impacts. Based on this analysis, the Tualatin Basin assigned a different “limit” decision to areas and mapped the *strictly*, *moderately* and *lightly* limit areas. The proposed Significant Habitat Areas map delineates the “general location” of each “limit” classification, and the proposed delineation methodology provides procedures for verifying the precise boundaries of the inventoried habitat areas. The proposed amendments would adopt the proposed “Significant Habitat Areas Map” and add “significant habitat areas” to the list of sensitive lands potentially unsuitable for development. The proposed amendments will offer greater regulator flexibility to encourage developers to give special consideration to the preservation of sensitive habitat on their properties.

3.4.2 The City shall: a. Protect fish and wildlife habitat along stream corridors by managing the riparian habitat and controlling erosion, and by requiring that areas of standing trees and natural vegetation along natural drainage courses and waterways be maintained to the maximum extent possible;

The proposed amendments will offer greater regulator flexibility to encourage developers to preserve “significant habitat areas” located on their properties to the maximum extent possible. Habitat-friendly provisions would encourage the preservation of fish and wildlife habitat (including along stream corridors) by allowing reduction of minimum density requirements, adjustment to site dimensional and street improvement standards, and low impact development techniques.

3.5 Parks, Recreation and Open Space

3.5.1 The City shall encourage private enterprise and intergovernmental agreements which will provide for open space, recreation lands, facilities, and preserve natural, scenic and historic areas in a manner consistent with the availability of resources.

Based on the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program and the inventory of “significant fish and wildlife areas”, the proposed amendments were identified to encourage property owners and developers to preserve the significant habitat resources on their properties.

Policy 4 – Air, Water, and Land Resources

4.2 Water Quality

4.2.1 All development within the Tigard Urban Planning Area shall comply with applicable Federal, State and Regional water quality standards, including those contained in the Clean Water Services' Design and Construction Manual.

The *Tualatin Basin Fish and Wildlife Habitat Program*, which formed the basis for the proposed amendments, was developed as a basin-specific approach to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). In addition, the Tualatin Basin program was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin.

The proposed amendment to 18.360.090.A.2.c. would encourage developers to incorporate innovative methods and techniques for reducing site hydrology and fish and wildlife habitat impacts into their site planning.

3. The City shall cooperate with the Metropolitan Service District and other appropriate agencies to establish practices which minimize the introduction of pollutants into ground and surface waters.

The *Tualatin Basin Partners for Natural Places*, an alliance of local governments in Washington County, collaborated with Metro and Clean Water Services to develop the basin-specific approach and to meet federal, state and regional requirements for protecting fish and wildlife habitat.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendments satisfy the applicable policies contained in the City of Tigard Comprehensive Plan.

METRO Framework Plan

Metro Functional Plan Title 3 – Water Quality, Flood Management, and Fish/Wildlife Habitat Conservation – protect beneficial uses and functional values of water quality and flood management resources by limiting uses in these areas. Establish buffer zones around resource areas to protect from new development.

In 2002, the City of Tigard adopted Comprehensive Plan and Code Amendments to comply with Title 3 of Metro's Urban Growth Management Functional Plan, which outlines water quality and flood management requirements for the region. The adopted standards were based on a unified program developed by local governments in the Tualatin Basin and implemented through the Clean Water Services District's (CWS) Design & Construction Standards, which provides for vegetated stream corridor buffers up to 200 feet wide and mandating restoration of corridors in marginal or degraded condition.

The multi-jurisdictional approach undertaken by Tualatin Basin jurisdictions was continued with the formation of the Tualatin Basin alliance to develop a program to meet Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro's Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). The *Tualatin Basin Fish and Wildlife Habitat Program* was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water (including rivers, streams and creeks) within the Tualatin Basin.

In addition, Clean Water Services, local cities, Washington County, Metro, and Tualatin Hills Park and Recreation District, partnered on a parallel effort to develop the CWS Healthy Streams Plan (HSP), an updated watershed plan designed to enhance the functions of the Tualatin Basin surface water system and address the Clean Water Act and Endangered Species Act (ESA). One of the proposed changes to the Development Code would allow HSP projects to be permitted outright when performed in coordination with the City.

Metro Functional Plan Title 13 – Nature in Neighborhoods – conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

As stated above, the Tualatin Basin Fish and Wildlife Habitat Program was developed to address Statewide Goal 5 requirements for inventorying riparian areas and wildlife habitat and to comply with Metro’s Urban Growth Management Functional Plan Title 13 (the regional *Nature in Neighborhoods* program). As stated under Metro Code Section 3.07.1330 (B) (5), the Tualatin Basin Program serves as an alternative for member jurisdictions to implement Title 13 as established by an intergovernmental agreement (IGA) between Metro and the Tualatin Basin Natural Resource Coordinating Committee (TBNRCC).

One of the conditions set by the IGA is that Tualatin Basin members must adopt provisions to facilitate and encourage the use of habitat-friendly development practices where technically feasible and appropriate. The Program Implementation Report, prepared by the Tualatin Basin Partners, recommends development code amendments for local jurisdictions to incorporate habitat-friendly development provisions and remove regulatory barriers. The amendments being proposed were identified based on an analysis of these recommendations and existing City of Tigard regulations.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendments satisfy the applicable Metro regulations.

Statewide Planning Goals

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

A series of outreach efforts was undertaken by the Tualatin Basin Partners, including Tigard, throughout inventory, analysis, and program development phases of this effort. Regular steering committee and coordinating committee meetings held monthly were open to the public. A total of nine open houses and three public hearings were held as part of the Tualatin Basin effort. A stakeholder dialog was held in September 2006 with individuals representing various environmental and development interests. In addition, the Partners produced a project website, newsletters and information booths (at various events) and held CPO (Citizen Participation Organization) and panel discussions. Throughout the process, program status updates were posted on the City of Tigard website.

As part of the Comprehensive Plan Amendment process, public notices were sent to 2,674 potentially affected property owners informing them of the proposed amendments and public hearings scheduled with the Planning Commission and the City Council. An information sheet was enclosed in the mailing

and a webpage was created on the City website to provide a brief background and overview of the proposed changes, as well as, contact details to obtain more information. In addition, notice of the public hearing was published in the September 28, 2006, issue of the Tigard Times.

Statewide Planning Goal 2 – Land Use Planning:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.).

The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.

The proposed amendments to the Tigard Comprehensive Plan and Community Development Code are being processed as a Type IV procedure, which requires any applicable statewide planning goals, federal or state statutes or regulations, METRO regulations, comprehensive plan policies, and City's implementing ordinances, be addressed as part of the decision-making process. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources

Requires the inventory and protection of natural resources, open spaces, historic areas and sites suitable for removal and processing of mineral and aggregate resources.

Goal 5 establishes three basic steps to comply with its standard inventory process, which include: conducting an inventory and map of significant resources; analyzing the economic, social, environmental and energy (ESEE) impacts of protecting inventoried resources; and, developing a program to implement the ESEE decision to allow, limit or prohibit conflicting uses.

Metro completed the first step by adopting an inventory for Regionally Significant Riparian Corridors and Wildlife Habitat. The Tualatin Basin Partners completed the second step by analyzing the environmental, social, economic, and energy (ESEE) consequences of allowing, limiting or prohibiting (ALP) conflicting uses in areas identified in Metro's inventory. The final step was partially completed when Metro incorporated the Tualatin Basin Fish and Wildlife Habitat Program as part of the regional Nature in Neighborhoods Program. Now Tualatin Basin members must adopt provisions to facilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate. The amendments being proposed will implement the habitat protection program in compliance with Goal 5 requirements and Metro's regional Title 13 program.

Statewide Planning Goal 6 – Air, Water and Land Resource Quality

To maintain and improve the quality of the air, water and land resources of the state.

Once a regional functional plan has been acknowledged by the State Land Conservation and Development Commission, local governments within Metro must apply the requirements of the functional plan to comply with Statewide Planning Goals. In 2002, the City of Tigard adopted Comprehensive Plan and Code Amendments to comply with Title 3 of Metro's Urban Growth Management Functional Plan, which outlines water quality and flood management requirements to comply with Goal 6 water quality provisions. The adopted standards were based on a unified program developed by local governments in the Tualatin Basin and implemented through the Clean Water Services District's (CWS) Design & Construction Standards, which provides for vegetated stream corridor buffers up to 200 feet wide and mandating restoration of corridors in marginal or degraded condition.

Title 3, section 3.07.350.C., directed Metro to complete the inventory, analysis and program development

to protect fish and wildlife habitat. The regional *Nature in Neighborhoods* Program and Title 13 of Metro's Urban Growth Management Functional Plan were the outcomes of this effort.

The proposed amendments are intended to implement the Tualatin Basin Fish and Wildlife Habitat Program, which was developed to complement Clean Water Services Design and Construction Standards to protect the beneficial uses of water. The Tualatin Basin Fish and Wildlife Program maintains protections offered through Title 3, while providing for the removal of barriers to habitat friendly development that minimizes impacts to site hydrology and habitat.

CONCLUSION: Based on the analysis above, staff finds that the proposed amendments satisfy the applicable Statewide Planning Goals.

State or Federal Regulations

Federal Endangered Species Act

In 1973, the Federal Government passed the Endangered Species Act to protect and recover imperiled species and the ecosystems which they depend. Under Statewide Planning Goal 5, local governments are required to obtain current habitat inventory information for wildlife habitat inventories.

The proposed amendments will result in adoption of the inventory of fish and wildlife habitat areas within the City of Tigard. The proposed "Significant Habitat Areas Map" is based on the inventory of regionally significant riparian corridors and wildlife habitat completed by Metro in 2002. In determining habitats of concern, Metro gathered data on sensitive species sighting locations, sensitive bird sites, and wildlife species of concern; linked sensitive wildlife species to their habitat needs; and estimated the amount of potential habitat available.

Federal Clean Water Act

The Clean Water Act regulates impacts to wetlands and other navigable waters of the United States.

The Tualatin Basin Fish and Wildlife Habitat Program is one of multiple efforts developed in coordination with Clean Water Services, the surface water management and sanitary sewer system utility for urban Washington County, to protect surface water quality. The proposed amendments are intended to implement the Tualatin Basin Program, which was developed to complement other efforts developed in coordination with Clean Water Services (including the Healthy Streams Plan, Stormwater Management Plan, Design and Construction Standards) and designed to address the Clean Water Act and Endangered Species Act (ESA). One of the proposed changes to the Development Code would allow HSP projects to be permitted outright when performed in coordination with the City.

SECTION VI. CITIZEN COMMENTS

John Frewing reviewed the proposal and has offered the following comments:

General Response:

The proposed amendments were identified to implement the recommendations of the *Tualatin Basin Fish & Wildlife Habitat Program* in compliance with Statewide Planning Goal 5 and Metro's *Nature in Neighborhoods Program* (Title 13). Further revisions to the City of Tigard existing regulations which go beyond the scope of this application should be addressed as part (and incorporated into) the larger Comprehensive Plan update process and any subsequent code enhancements identified for the City's local implementing ordinances.

1. **Volume II (Policies) of the Tigard Comp Plan should be amended to implement habitat-friendly development provisions.**

Response: Applicable policies contained in Volume II of the City of Tigard Comprehensive Plan have been reviewed within this staff report. Based on the analysis, the proposed amendments were determined to be consistent with existing Comp Plan policies. The City is currently in the process of updating both Volume I and Volume II of the Comprehensive Plan. Any amendments to the policies and strategies contained in Volume II (Findings, Policies & Implementation Strategies) will be considered as part of the larger Comprehensive Plan update process.

2. **A. The proposed change to TCDC 18.360.090 only addresses stormwater runoff, it does not address many other factors which are included in habitat-friendly development**

Response: The proposed text change to Section 18.360.090.A.2. has been broadened (beyond stormwater issues) to address potential impacts to site hydrology and fish and wildlife habitat. Also, a list of six broad categories of habitat-friendly development methods has been added, which includes: water quality facilities, pervious pavement, soil amendment, roof runoff controls, habitat friendly fencing and re-directed outdoor lighting. These categories were identified to cover the methods and techniques recommended by the Tualatin Basin Partners.

B. The proposed changes to TCDC 18.360.090 call for 'consideration' of innovative methods and techniques regarding stormwater runoff. This word (consider) is used elsewhere in the Tigard code regarding evaluation of habitat-friendly design features. A definition of 'consider' should be added to the Tigard code.

Response: The proposed revision to Section 18.360.090.A.2. invites developers to consider methods and techniques for reducing impacts to site hydrology and fish and wildlife habitat based on the surface water drainage patterns and inventoried habitat areas on their property. The standard groups these techniques into six broad categories (i.e. water quality facilities, pervious pavement, soil amendment, roof runoff controls, habitat friendly fencing and re-directed outdoor lighting). "Consideration" of the habitat-friendly development techniques would be determined to be met if this review criterion is addressed within the development proposal in relationship to on-site conditions.

3. **The Proposed Tigard Significant Habitat Areas Map has an important note on it, to the effect that its information is for "general location only". A. The TCDC should have added to it a definition of Significant Habitat Area (Chapter 18.120) and should include a procedure (Chapter 18.775) for any party to add or subtract significant habitat areas to the proposed map within the context of a specific development application; as proposed, only the applicant can make such change.**

Response:

The general location of "strictly", "moderately" and "lightly" limit habitat areas is shown on the proposed "Significant Habitat Areas Map"; however, the standards shall be applied to a specific site based on the delineation methodology proposed under Section 18.775.140 of the Sensitive Lands Chapter. As required for wetlands and floodplains, the precise delineation of the "limit" areas shall be surveyed by a qualified professional.

For adjustments to the regional (riparian and upland) habitat inventory, the Tualatin Basin Program utilizes the regional "map correction" process established by Metro. A map correction request form may be obtained on Metro's website and submitted along with sufficient evidence documenting the mapping error. As part of the regional program, local jurisdictions must coordinate with Metro for on-going maintenance of the habitat inventory maps.

B. The map and associated implementation procedures should include provision for identification and protection of individual 'habitat of concern' areas outside the generalized definitions and colorings of the map.

Response: The proposed "Significant Habitat Areas Map" is based on the inventory of regionally significant riparian corridors and wildlife habitat completed by Metro in 2002. As outlined by

Statewide Goal 5 rules, Metro identified habitats of concern by gathering data on sensitive species sighting locations, sensitive bird sites, and wildlife species of concern; linked sensitive wildlife species to their habitat needs; and estimated the amount of potential habitat available. The inventory "significant" habitat areas and the analysis of consequences of allowing, limiting or prohibiting (ALP) conflicting uses were conducted according to the procedures and requirements for complying with State Goal 5 as defined in Oregon Administrative Rule (OAR) 660-023. Resources situated outside the mapped boundaries (for significant habitat areas) must be delineated by a qualified professional following the proposed delineation methodology.

4. **The proposed TCDC amendments to allow alternative pervious surfaces for parking include the requirement that such surfaces be maintained in a well-drained condition. This is a good requirement, but it is almost unique in the TCDC to place an ongoing responsibility of the land owner in the TCDC.**

Response: The text revision requiring pervious paving surfaces to be designed and maintained to remain well-drained borrows existing language from the "bicycle parking design standards" found in 18.765.050.D. The current standard requires surfaces to be "designed to remain well-drained." Since pervious surfaces must be maintained to ensure long-term permeability, the requirement for maintenance was added as part of the text revision.

Tualatin Basin effort has been coordinated with concurrent efforts by Clean Water Service (CWS), including their Healthy Streams Plan, Stormwater Management Plan, and update of the Design and Construction Standards. CWS is currently in the process of revising its Design and Construction Standards to include technical details on stormwater management techniques identified in coordination with the Tualatin Basin Partners.

5. **The meaning of these Class I and Class II areas should be explained and they should be applied to development standards in Chapter 18.775.**

Response: A summary of the *Tualatin Basin "Limit" Decision* was added (refer to Table 18.775.3) to the methodology for verifying boundaries for inventoried riparian habitat (18.775.140.A.1.) describing the relationship between "Class I & II" riparian areas and the "strictly limit" "moderately limit" areas on the proposed Significant Habitat Areas Map.

6. **Audubon Society Stormwater Pavement Impacts Reduction (SPIR) Report: These changes define and add reference to practices which can reduce the impact of stormwater and pavement on the flora and fauna habitat in Tigard.**

Tigard standards for stormwater retention in new development applications should be clarified to require the use of bioswales, rain gardens, ponding, etc.

Response: The text revisions being proposed were identified to complement the current standards within the Tigard Community Development Code and existing language which encourages the preservation of existing trees and the use of native plants. Amendments to the Development Code are being proposed to promote the use of low impact/habitat-sensitive development techniques. These techniques were grouped into six broad categories, which include water quality facilities, pervious pavement, soil amendment, roof runoff controls, habitat friendly fencing and re-directed outdoor lighting. For instance, the category for water quality facilities covers techniques for infiltration, retention, detention and/or treatment of stormwater, such as bioswales. These categories were identified to cover the methods and techniques recommended by the Tualatin Basin Partners and those systems approved by Clean Water Services.

Dayle Beach reviewed the proposal and has offered the following comment:

1. **Almost all the land bordering Red Rock Creek has been classified as habitat-friendly with the exception of a big gap between 72nd Ave. and the theater entrance from 99W. I strongly suggest that the planners take another look at this Red Rock Creek area.**

Response: As part of the assessment of conflicting uses, the Tualatin Basin Partners conducted a site-specific economic, social, environmental and energy (ESEE) analysis of inventoried subwatershed sites. This analysis factored in site characteristics and features (such as land uses and

natural features) resulting in some site-level adjustments to the regional inventory.

The area in question was originally mapped by Metro as Class II riparian habitat. The site is designated as publicly-owned right of way and is currently protected under Clean Water Services "Design and Construction Standards" and the City of Tigard's Development Code. Existing regulations are more restrictive and therefore supersede the proposed habitat-friendly development provisions.

PREPARED BY: Denver Igarta
Associate Planner

DATE

REVIEWED BY: Richard Bewersdorff
Planning Manager

DATE

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
October 16, 2006**

1. CALL TO ORDER

President Inman called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman; Commissioners Buehner, Caffall, Meads, Vermilyea (arrived late), and Walsh.

Commissioners Absent: Commissioners Harbison and Munro

Staff Present: Dick Bewersdorff, Planning Manager; Beth St. Amand, Senior Planner; Denver Igarta, Associate Planner; Jerree Lewis, Planning Commission Secretary

3. PLANNING COMMISSION COMMUNICATIONS AND COMMITTEE REPORTS

Commissioner Walsh reported on the Tree Board. He advised that the Tree Board will attend a workshop with the Planning Commission on November 6th to discuss two proposed code amendments. At their last meeting, the Tree Board also discussed the Costco parking lot canopy.

Commissioner Buehner reported that the City Center Advisory Commission met last week. They decided to leave the rest of the design review issues to the discretion of the Planning Commission. They will start working on the Master Plan for the park and the outreach effort to the downtown property owners.

Commissioner Buehner also reported on the Transportation Financing Task Force. They are scheduled for public meetings on the 9th and the 30th to discuss the gas tax proposal.

Commissioner Meads reported on the Park and Recreation Advisory Board. They are working on financing for a start up recreation program in Tigard. They will be adding it to the budget for the next fiscal year. The Board would like to use existing resources as much as possible. They hope to have a pilot program with some classes and after school activities.

4. APPROVE MEETING MINUTES

It was moved and seconded to approve the October 2, 2006 meeting minutes as submitted. The motion passed unanimously.

5. PUBLIC HEARING

5.1 COMPREHENSIVE PLAN AMENDMENT (CPA) 2006-00001/ DEVELOPMENT CODE AMENDMENT (DCA) 2006-00004 HABITAT- FRIENDLY DEVELOPMENT PROVISIONS

REQUEST: Amendments to the Tigard Comprehensive Plan (Volume I) and Community Development Code (Sections 18.360, 18.370, 18.705, 18.715, 18.765, 18.775, 18.810) in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods) to adopt the Significant Habitat Areas Map and to implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program aimed at encouraging the use of habitat-friendly development practices. The proposed amendments will not result in increased development restrictions but will give developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. Amendments will remove barriers to, and provide code flexibility for development that incorporates habitat-friendly techniques. The complete text of the proposed Code Amendment can be viewed on the City's website at http://www.tigard-or.gov/code_amendments. **LOCATION:** Citywide. **ZONE:** CBD, C-G, C-P, I-H, I-L, I-P, MUC, MUE, MUE-1, MUE-2, MUR-1, MUR-2, R-1, R-2, R-3.5, R-4.5, R-7, R-12, R-25. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.380, 18.390, 18.705, 18.715, 18.765, 18.775 and 18.810; Comprehensive Plan Policies 2, 3 & 4; Metro Functional Plan Title 3 and 13; and Statewide Planning Goals 1, 2, 5 and 6.

STAFF REPORT

Associate Planner Denver Igarta gave a PowerPoint presentation (Exhibit A) on proposed habitat-friendly development code amendments. He advised that the purpose of the amendments is to encourage the use of habitat-friendly development methods by implementing the Tualatin Basin Fish Wildlife Habitat Program. The intent is to convey a benefit to the developer in exchange for use of development practices that are sensitive to habitat on site. It is not intended to increase development restrictions. The program is a voluntary, incentive-based approach.

Igarta advised that the program would be in compliance with the Statewide Planning Goal 5 and Metro Functional Plan, Title 13. He noted that there are 3 steps involved with the inventory of habitat areas (a regional significant habitat inventory completed by Metro; an

assessment of conflicting uses - environmental, social, economic, energy [ESEE] assessment; development of a program).

The focus of the implementation phase of the program is on habitat-friendly development (a broad-range of techniques that reduce the impact on fish and wildlife habitat). There are two steps involved – remove barriers for the use of habitat-friendly practices and develop guidelines for using habitat-friendly development practices.

The Tualatin Basin Partners wrote a report for implementing the program to protect habitat. The recommendations included a list of 11 techniques of habitat-friendly development practices. In reviewing the techniques, Tigard determined that the City was substantially meeting a number of them through local ordinances already in use. However, there is a gap and some amendments are needed to address the rest of the techniques.

Igarta reviewed the significant habitat area map and described the habitat “limit” classifications. He detailed each of the proposed amendments for the Commission.

With regard to the proposed amendment for on-site density transfers, Igarta noted that the Planning Commission discussed this amendment earlier and decided not to support it at this time; they will revisit on-site density transfers at a later time.

Igarta advised that the Planning Commission would be holding a public hearing tonight and sending a recommendation to Council. City Council is scheduled for a workshop on November 21st and will hold a public hearing on the proposed amendments on December 12th.

Commissioner Buehner asked about the letter from Dayle Beach. He referred to a gap on Red Rock Creek along 72nd Ave. Igarta advised that when Metro did their inventory, they carried out the regional inventory. When the Tualatin Basin Partners took over the inventory, they performed a more specific district-wide inventory that looked more closely at resources on site and did an ESEE assessment. Complementary to this, we also have Clean Water Services (CWS) Design and Construction Standards which include vegetative corridor restrictions to development directly adjacent to streams. For the site Mr. Beach is referring to, those resources are protected by more strict regulations that are part of the CWS Design and Construction Standards. They supersede the habitat benefits provisions which are completely voluntary.

Commissioner Walsh asked about lot adjustments. Igarta answered that this provision allows the property owner to choose to resituate a building envelope to save resources; without the provision, there may be standards that restrict how that could happen. For example, the provision could allow a set back adjustment where the owner could put the structure closer to a lot line in order to preserve a resource on the other side of the site.

Igarta reported that, when staff was looking at the habitat-friendly recommendations, they did an extensive assessment of the existing code. Some of what is in the existing code covers a lot of the Tualatin Basin recommendations. Where there is a gap, there are standards in place that could be extended to the habitat areas. The proposed habitat-friendly code provisions are intended to complement the existing code to provide for preservation of significant habitat.

PUBLIC TESTIMONY – IN FAVOR

None

PUBLIC TESTIMONY – IN OPPOSITION

Fred Fields, 1149 SW Davenport, Portland, OR 97201, asked if the Tualatin Basin Partners were a legally constituted organization. Commissioner Buehner answered that the Partners were made up of representatives from all the jurisdictions in the Tualatin Valley. Metro delegated the responsibility of reviewing standards to this group. Each jurisdiction will review the recommendations and decide whether or not to implement them into their own codes. Igarta advised that the Tualatin Basin Partners submitted their program report to Metro. Metro adopted the program report, maps, and analysis as part of their Nature in Neighborhoods Program which has been adopted as a functional plan for the region.

Mr. Fields asked about compensation for property owners. President Inman advised that this will provide increased flexibility for builders. Commissioner Meads also noted that the measures are voluntary – property owners are not required to do anything that they wouldn't want to do.

Mr. Fields asked about increased density. The Commission advised that the density transfer portion of the proposed amendment is not going to be included with the rest of the code amendments at this time. That particular recommendation is being deferred for discussion at a later time. That section of the existing code is not going to change at this time.

Sue Bielke, 11755 SW 114th Place, Tigard, OR 97223 testified on several issues (a copy of her testimony is included as Exhibit B). She believes that the program proposed by the Tualatin Basin Partners would protect fewer habitats than the region-wide program. She noted that there are segments of some streams not shown on the significant habitat areas map, e.g., a tributary of Ash Creek located north of Cascade Blvd. a small permanent creek north of Tigard Street, and other gaps on the map for streams. In addition, she noted that some areas shown on the map indicate less protection for some habitat areas. She recommended that the current map not be adopted until corrections can be made.

Ms. Bielke believes that “strictly limit”, “moderately limit”, and “lightly limit” don’t give adequate protection to some resources. She would rather change it to “prohibit”, “strictly limit”, and “moderately limit”. She also recommends increasing buffer areas in some areas.

Ms. Bielke opposes the exemption for the Clean Water Services Healthy Streams Plan. By exempting CWS, citizens would not be allowed to comment on projects. Citizens should be able to ask questions and raise concerns about CWS projects.

Commissioner Meads asked about making modifications to the map. Staff advised that the process would be to obtain a form from Metro, provide documentation/support materials, and submit it all back to Metro. For delineation errors, the Tualatin Basin Partners are establishing a delineation methodology for how to verify precise boundaries of resources on site. The methodology will be adopted as part of the code amendments.

Igarta advised that the map is intended as a general location map which would trigger on-the-ground delineation. It is not intended to show the precise location of resources.

Commissioner Buehner asked if amendments would have to go through DLCD. Staff answered that amendments would go to Metro. Commissioner Buehner also asked what the process would be if she had an issue in terms of a particular spot. Staff answered that she would need to fill out the form at Metro. Metro updates their maps and verifies requests for changes. Metro staff reviews the documentation requirements to determine whether or not the materials are correct. They take action based on that determination. The map is updated on a regular basis, not necessarily immediately. There is no deadline for this. Map maintenance is a coordinated effort between Metro and the jurisdictions.

President Inman asked if the map itself will be going into the Comprehensive Plan. Staff answered yes, but we do not have an inventory that accurately maps all the resources. Sue Bielke said this could be something to add to the Comp Plan – a future comprehensive survey of resources (wildlife, fish, etc.) and make it a goal. The Commission noted that it would be extremely expensive to do this, but that additional changes could be made during the Comp Plan update process.

Commissioner Walsh asked if the public would not have an opportunity to comment, if the CWS exemption section was adopted. Dick Bewersdorff advised that exemptions are already in the code – they are uses that are allowed outright. He said this could be an area for the Comp Plan update and Zoning Code update. If it would result in more takings, there could be more ballot measure 37 issues. The Commission asked to what extent there is opportunity for public comment with respect to CWS Healthy Stream Plan projects. Staff answered that CWS would need to go through DSL for their Healthy Streams Plan projects, but there would be no opportunity for citizen input if they are exempt from sensitive lands review. Commissioner Vermilyea clarified that if we adopt this specific amendment, we are precluding public comment as it relates to Clean Water projects.

Commissioner Buehner noted that there is not a lot of leverage with CWS. She wonders why the City should give up the little bit of leverage we have for the convenience of CWS.

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, asked when an amendment for density transfer would be considered. The Commission advised that they will probably discuss it next year during the Comp Plan update.

Mr. Frewing asked that the record be held open for 7 days so he could have time to review materials he received in response to questions he had. Staff advised that this was a legislative hearing and the Commission would have to consider the request.

Mr. Frewing agreed with previous discussion about public testimony for CWS projects. He asked if the CWS exemption was part of the Tualatin Valley Partners recommendation for all jurisdictions. Staff answered yes.

Staff explained the process for map corrections to Mr. Frewing. The City would be notified whenever Metro maps are updated. Tigard would then update the significant habitat map. It was noted that the map only shows general areas of resources. When land is developed, the developer would have an analyst do the delineation. Map errors will show up during the development stage. The map acts as reference point, it is not specific or accurate as far as significant habitat areas.

Staff advised that the City is not proposing amendments to Volume II of the Comprehensive Plan at this time. The significant habitat map is part of the inventory, it's not regulatory. The purpose of the proposed regulations is to encourage habitat friendly development.

Regarding Code Section 18.360.090, Mr. Frewing suggested defining the word "consideration". Commissioner Buehner proposed looking at this as we go through Phase II of the Comp Plan process. Commissioner Vermilyea said that maybe a description of a process for demonstrating consideration could be used.

Mr. Frewing referred to the proposed list of innovative methods listed in Section 18.360.090.A.2.C. He suggested adding a 7th method - retaining vegetative cover and retaining canopy cover.

For Section 18.775.140 A.1.a.2, Mr. Frewing would like to see clarification of the term "flood areas". Commissioner Vermilyea suggested being consistent with the existing language under 18.775.010 (on page 5).

For Section 18.775.140 A.1.a.3, Mr. Frewing asked about unidentified wetlands – is there any obligation to pick those up? The Commission discussed changes to the proposed language [see motion for final proposed language].

Tim LeBrun, 13275 SW Greenfield Dr., Tigard, OR 97223, signed up to speak but left the meeting before doing so.

Duane Wilson, Five Centerpointe Drive, Suite #280, Lake Oswego, OR 97035, asked if this is voluntary, why delineate? If a developer chooses not to participate in habitat friendly construction, what recourse does the City have? The Commission answered that there is no recourse by the City; however, CWS has some requirements. It was noted that the regulations weren't intended to be voluntary when the discussions first began, but when Measure 37 passed, Metro had to make the regulations voluntary.

Mr. Wilson asked about limiting or prohibiting conflicting uses. Staff answered that the limit decision and conflicting use analysis are based on the process laid out by Statewide Goal 5 procedures for inventorying the resources. When assessing the ESEE consequences of the uses, the voluntary regulations encourage developers to take advantage of flexibility to protect resources.

Mr. Wilson asked about benefits for the developer. President Inman put forth a scenario where a developer is doing a project that involves a significant habitat and is being required to provide right-of-way for access. The developer could perhaps have the flexibility to narrow the street improvements to minimize the impact to the habitat. This flexibility may not be currently allowed. It could also allow a developer to take a benefit by using pervious asphalt for an apartment complex project. These regulations would give the developer the ability to do that, which is not currently in the code. These regulations allow the developer to take those kinds of measures/advancements, and do more green projects without being in conflict with the current code.

Mr. Wilson believes the term "limit or prohibit conflicting uses" should be defined. Staff advised that this term, as written in the staff report, is not in the Code. This is just background information, showing the process for Statewide Goal 5 rules. It will not be part of the Development Code.

Staff advised that delineation in sensitive lands would be required to take advantage of the program flexibility. If developers want to use the benefits from the program, they must do the delineation. They are not required to delineate habitat areas if they do not want to take advantage of the provisions.

Mr. Wilson asked, if the City is adopting the map into the Comprehensive Plan, wouldn't any change to the map require a Comp Plan Amendment? Staff advised that the map will be adopted as an inventory document; it's not part of Volume II which is the policy document. The map will be in Volume I, which consists of non-binding background information.

PUBLIC HEARING CLOSED

After deliberation, the Commission modified some of the proposed code language. Commissioner Vermilyea then moved to recommend to City Council approval of the habitat-friendly development provisions and proposed amendments as presented, except as modified by the Planning Commission [noted below], including the staff report and testimony heard this evening. Modifications the proposed amendments include:

1. On page 2 of 10, under 18.360.090 A.2.c., add number 7 to read, "Preservation of existing vegetative or canopy cover."
2. On page 5 of 10, under 18.775.020 C. Exemptions – delete this section.
3. On page 6 of 10, under 18.775.140 A.1.a.2, change language to read: "Locate all 100-year floodplain areas or 1996 flood inundation line, whichever is greater, within 100 feet of the property."
4. On page 6 of 10, under 18.775.140 A.1.a.3, the first sentence shall end after the word "property"; the rest of the sentence shall be deleted. The second sentence shall read, "Identified wetlands on the property shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers."

Commissioner Buehner seconded the motion. A vote was taken and the motion passed unanimously.

6. COMPREHENSIVE PLAN UPDATE

• NATURAL RESOURCES REPORT - Continuation

Denver Igarta gave a PowerPoint presentation on Wetlands and Fish and Wildlife Habitat (Exhibit C). He advised that the wetland inventory was conducted in 1994 by a consultant. The local wetland inventory looked at significant habitat based on functional assessment. The City's Safe Harbor process puts regulatory restrictions on grading, excavation, placement of fill, and removal of vegetation.

Igarta reviewed the wetland statistics with the Commission. He noted that the local wetland inventory map was submitted to the Department of State Lands (DSL) and approved. It has been adopted as part of our Development Code. He advised that the consultant performed the inventory, which was approved by DSL. The map is maintained based on approved Comp Plan amendments and delineations that we receive from DSL. DSL sends us a notification if they have changed their map inventory. We are required to amend our maps to represent what the State has changed. Metro is not involved with this process.

Staff confirmed that there are two separate methods for determining wetlands inventory in Tigard – Metro and DSL. Typically, if there is a development proposal that would affect wetlands (to fill or remove wetland), the proposal has to go through the Comp Plan

amendment process to remove the Safe Harbor provisions and then is submitted to DSL so they can update their map. Until there is a development activity that will potentially have an adverse impact to a wetland, we may not know that the wetland exists. An on-the-ground delineation is a very expensive endeavor. Commissioner Vermilyea believes that if the City knew what is truly out there, there would be an opportunity to plan, protect, and be proactive. The current process is entirely reactive with regard to wetlands and habitat.

Senior Planner Beth St. Amand noted the local wetlands inventory was done in 1994, which set the baseline. There is a question about anything identified since then. Delineation is just a survey; there should also be an assessment, such as with the ESEE process, that should be done. There is a potential to make some changes when going through the Comp Plan update process.

Commissioner Vermilyea would like to be able to identify areas of concern that can be taken into consideration as the City goes through the Comp Plan process. The goal should be to have our information be as accurate and up-to-date as possible. It was suggested that there may be a way to gather supplemental work that has already been done.

Igarta explained the importance of coordination with other jurisdictions with regard to fish and wildlife habitat. He reviewed the statistics and findings of the fish and wildlife habitat analysis and the habitat map produced the Tualatin Basin Partners.

John Frewing noted that there have been dozens of developments in Tigard over the past several years. In some cases, they have included a natural resources assessment. He wonders if staff has incorporated that information from those individual applications onto this map. Staff answered that previous applications have not been examined to update the map. The map is intended to be a general location map.

President Inman asked the Commissioners if they thought they had enough information to evaluate where we are and what we want to do with the Comp Plan. Also, as part of the Comp Plan review, does the Commission want to spend the resources to prioritize and update the maps? Commissioner Buehner believes it would be a good idea to pull development applications where there are known wetland delineations. Staff noted that they would be limited to floodplain, drainageways, and buffers.

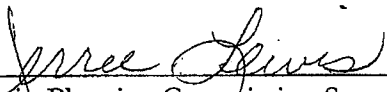
Commissioner Vermilyea believes that getting closer to reality on the maps, rather than general delineation, would be better than what we have now. President Inman noted that the maps are used to trigger an analysis for development. If the development has already occurred, why do we need to update the map that would no longer be used for a trigger for that site? She is more concerned about property that does not show the resources to generate further analysis. Staff suggested looking for a gap analysis now. It was noted that the information being presented at this point is a general overview of the different areas of the Comp Plan – types of resources, where they are located, etc.

7. **OTHER BUSINESS**

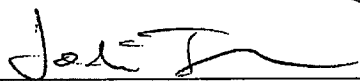
None

8. **ADJOURNMENT**

The meeting adjourned at 9:53 p.m.

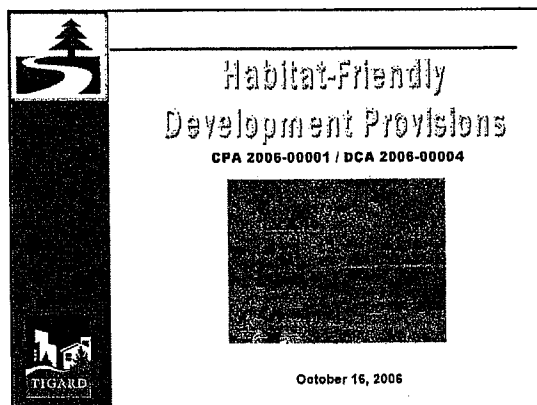


Jerree Lewis, Planning Commission Secretary



ATTEST: President Jodie Inman

EX. A



Proposed Comprehensive Plan and Development Code Amendments

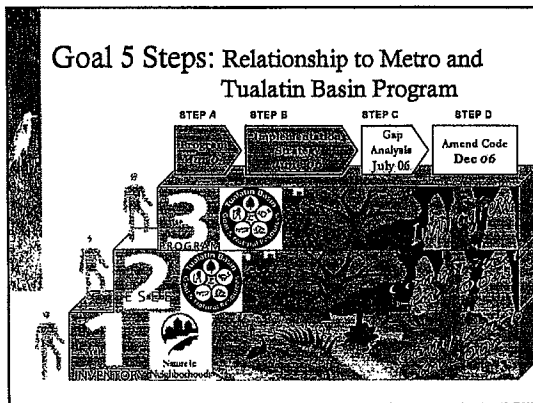
Purpose

- Encourage the use of "habitat-friendly" development methods by implementing the *Tualatin Basin Fish & Wildlife Habitat Program*
- In compliance with:
 - Statewide Planning Goal 5
 - Metro Functional Plan Title 13 (NIN)

What is Goal 5?

Oregon's 19 statewide planning goals are the framework for local land use planning programs

Statewide Planning	GOAL 5	Aims to protect <ul style="list-style-type: none">■ Natural resources■ Scenic and historic areas■ Open spaces
		Provides guidelines for local governments <ul style="list-style-type: none">■ Inventory natural resources■ Identify the most significant resources■ Take steps to protect them




Implementation

Habitat-Friendly Development

Reduce detrimental impacts of development on fish and wildlife habitat.

Steps

- Remove barriers to the use of habitat-friendly practices
- Develop guidelines to encourage habitat-friendly development practices



Gap Analysis

Review existing regulations for consistency with "habitat-friendly development" recommendations of the Tualatin Basin.

Summary of Findings

- 11 recommendations were determined to be substantially met by existing regulations
 - Lot Coverage Flexibility
 - Parking Ratios
 - Shared Driveways & Parking
 - Parking Stall Dimensions
 - Parking Lot Landscaping
 - Location of Landscaping
 - Use of Native Plants
 - Tree Canopy Preservation
 - Minimum Lot Size Reduction
 - Maximize Street Tree Coverage
 - Use Stormwater Management Facilities

Proposed Amendments

Based on Gap Analysis:

Amendments required to address the following:

- Adopt inventory of Significant Habitat Areas
- Site-specific delineation methodology
- Encourage habitat-friendly development practices
- Allow pervious paving for certain surfaces
- Modify net-buildable area and allow on-site density transfer from habitat areas
- Allow reduction to minimum density required
- Permit CWS Healthy Streams projects
- Lot dimensional adjustments for habitat areas
- Allow adjustments to street standards within habitat areas

Proposed Amendment

Tigard Significant Habitat Areas

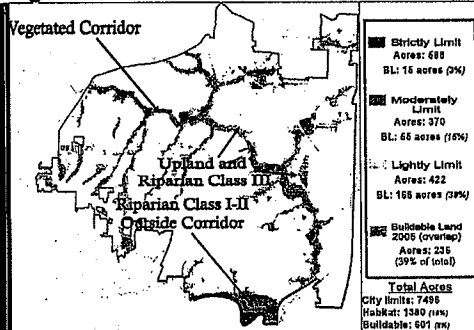
Proposed Amendment


- Adopt the *Significant Habitat Areas Map*
- Add *Significant Habitat Areas* to the list of Sensitive Lands

Purpose

Adopt a map to establish the general location of each habitat "limit" classification defined based on the ESEE analysis.

Significant Habitat Areas





Proposed Amendment


Habitat Delineation Methodology

Proposed Amendment

- Incorporate a habitat delineation methodology based on Metro's Model Ordinance

Purpose

Establish procedures for verifying the precise boundaries of the inventoried habitat areas



Proposed Amendment


"Habitat-Friendly" Development Methods


Proposed Amendment

- Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered.
 - Water quality facilities
 - Pervious pavement
 - Soil amendment
 - Roof runoff controls
 - Habitat-friendly Fencing
 - Re-directed outdoor lighting

Purpose

Encourage the use of techniques designed to reduce negative impacts on the environment.






Proposed Amendment

Pervious Paving Materials


Proposed Amendment

- Add pervious paving to list of allowed hard surface materials for walkways, parking areas and access drives.



Purpose

Allow paving techniques which reduce impervious area and storm water runoff



Proposed Amendment


On-Site Density Transfer

Tualatin Basin Recommendation

- Allow all development potential to be transferred from significant habitat areas to development area.

Planning Commission Consensus

- May result in development which is incompatible with the surrounding neighborhood
- Needs further consideration of appropriate design review standards and approval procedures
- Planning Commission decided to not support an amendment to allow density transfers at this time



Proposed Amendment


Permit Healthy Streams Projects


Proposed Amendment

- Exempt projects performed in coordination with the City to implement the CWS Healthy Streams Plan from sensitive land provisions.

Purpose

- Remove regulatory barriers to implementing HSP projects to improve watershed and stream health





Proposed Amendment

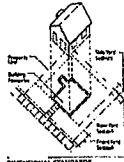
Lot Dimension Adjustments

Proposed Amendment


- Extend area eligible for adjustment to the highest value riparian areas:
 - Strictly Limit – Riparian Habitat
 - Moderately Limit – Riparian Habitat

Purpose

Allow flexibility to encourage habitat sensitive site designs



Source: Planning & Urban Design Standards
APA/Wiley & Sons (2009)



Proposed Amendment


Minimum Density Requirement

Proposed Amendment

- Allow reduction of minimum density requirements in significant habitat areas.

Purpose

Alleviate pressures and impacts on significant habitat areas resulting from minimum density requirements



Proposed Amendment


Adjustment to Street Standards


Proposed Amendment

- Add significant habitat areas to the list of natural features eligible for adjustments to street improvement standards.

Purpose

Allow for reductions to required paving within significant habitat areas.





Schedule

- Public Hearing – Oct 16
Recommendation to the City Council
- City Council Work Session – Nov 21
- Council Public Hearing – Dec 12

E4. B

October 16, 2006

To: Tigard Planning Commission, City of Tigard

Re: Comments on Proposed Changes to Tigard Comprehensive Plan and Community Development Code (see applicable sections below), in compliance with Statewide Planning Goal 5 and Metro Title 13 (Nature in Neighborhoods), and adoption of the Significant Habitat Areas Map.

We are writing to comment and submit recommendations regarding the proposed changes to above referenced plans and map. We are very concerned about the proposed changes as we do not feel they will adequately protect and enhance our existing remaining natural resources in the City of Tigard, in particular habitats for certain species such as the State Listed Western Painted and Pond Turtles, and rare plant communities, such as the Willamette Prairie/Oak habitats that remain in our city. The Tualatin Basin Fish and Wildlife Habitat Program, in which Tigard is a partner and was actively involved in developing, would protect less habitat (estimated at 10-30%) than the region-wide program adopted by other cities in the region. Citizens in Tigard care about their fish, wildlife, and habitats, and do NOT want less and weaker protections for those resources.

- **COMPREHENSIVE PLAN / NATURAL RESOURCE SECTION**

- **Proposed Significant Habitat Areas Map –**

- Upon reviewing this map, we find that portions or entire segments of some streams are not even on the map; this includes 1) a tributary of Ash Creek, located north and south of Cascade Blvd; 2) a small, permanent creek located north of Tigard Street just northeast of its junction with SW 115th street. 3) Other areas, such as the open space on the Fowler school district property on Tigard street, show a reduction in protections for wetlands, uplands, etc., as compared to the current Significant Habitat Areas Map. We do not agree with this change on the Fowler site, and dispute how and why other changes on the map were made that resulted in less habitat protection. This is important, as it proposes to REDUCE overall, the amount of habitat protected in the City of Tigard for a variety of species that use these habitats, including State listed native turtles which overwinter and nest up to ¼ mile from a body of water, Neotropical songbirds including several declining in their range, and the State listed Northern Red-legged Frog. We strongly recommend this map NOT be adopted until corrections can be made. Since we have inventory data for many areas in Tigard from our surveys, we will gladly share this with staff working on the Map to ensure corrections are made.
 - Regarding above Map, we recommend that the “Strictly Limit, Moderately Limit and Lightly Limit” be changed, in this order, to “Prohibit, Strictly Limit, and Moderately Limit”. This would afford greater protections to streams and adjacent riparian habitats that have some of the greatest biological diversity left in our city, including rare neotropical migratory songbirds such

as Willow Flycatchers, State Listed Painted and Pond Turtles and Red-legged Frogs. Tigard's current 3 categories would inadequately protect the above listed species, since it would not give strong enough protections for example, for overwintering sites on land for turtles, which need to be free of disturbance, and habitat for red-legged frogs, which need and can be found up to ¼ mile from a water source during much of the year, using these areas for resting, cover, feeding, and overwintering. Allowing even strictly limited development, such as a trail, to be put in these habitats for these State listed species has the potential to be extremely disruptive and have both short and long-term negative impacts to these imperiled species.

- Regarding above Map, we also recommend increasing buffer areas to up to 500-1000' in some areas, in particular where State listed Sensitive species occur. This would more adequately meet the intent of Goal 5, which is to ensure long-term protections and conservation of our natural resources. This additional increase in the buffer size would also help in catastrophic scenarios, such as 100year flooding, which can greatly alter habitats and cause major environmental damage.

- **COMMUNITY DEVELOPMENT CODE**

- **18.715.030** – We oppose the Basin recommendation allowing all density to be transferred up to double the density allowed on the remaining buildable portion of the site. This is ridiculous, as it would most likely result in for example, no trees to be preserved on the site since the developer would have no room to preserve trees. Tigard is already allowing too much density, and this proposal further would impact resources since it would place a greater burden on parks, trails, etc., to have to accommodate double the number of people allowed on a development. If the Basin program is to be seriously considered a plan to PROTECT NATURAL RESOURCES, than it needs to not allow any more density than is currently allowed.
- **18.715.020.A.1** – We recommend that the “e” proposed to be added should be mandatory, not “optional” as is currently recommended, as all lands on the Map are “sensitive” in nature.
- **18.775.020.C** – Exemptions – **We absolutely do not support exempting the CWS Healthy Streams Plan from provisions of this section.** Doing so would prohibit citizens from reviewing and commenting on proposed plans affecting our public natural resources in the city. In addition, #5. currently exempts routine maintenance or replacement of existing public facilities projects from this provision, and we also recommend NOT allowing this as an exemption. Too many times we have seen areas in greenways and open spaces be demolished by storm water projects and other activities, where roads are put into relative pristine open spaces, trees and all vegetation is bulldozed and wildlife is lost. These activities must not be exempt from public comment and scrutiny.

- 18.360.090A.2.b. Approval Criteria – We recommend that the wording be changed to “Trees **must** be preserved”, in order to more adequately protect our natural resources in our city; the present “shall” is too often left open to such a degree to interpretation that in many developments NO trees are left on the site at all.
- **18.775.020.B.1 and 7.** – We recommend that accessory uses such as lawns, gardens, etc. **have to have a permit** if a landowner proposes to put such in a floodplain, etc., since lawns, etc. provide zero habitat and in fact often increase the amounts of fertilizers, etc. used and going into a nearby waterway. If someone has a forested area and wants to turn it into a lawn, they should have to get a permit and justify what it is alright to do this. We recommend the same with fences (#7) as they also can restrict the movement of wildlife through an area and greatly disrupt movement through an area for many species of wildlife.

In conclusion, we recommend greater protections for our natural resources than what is being proposed by the Basin Plan and Tigard’s proposed revisions to the Significant Habitat Areas Map. We believe our quality of life, as well as the continued protection of our natural resources in our city, demands a larger area of habitat be preserved, greater buffers, etc., in order to ensure our resources are protected and truly meet the intentions of Goal 5 and that of the Metro Title 13.

Thank you for consideration of these comments/recommendations.

Sincerely,



Sue Beilke, Director
The Biodiversity Project of Tigard

Ex.C

Comprehensive Plan Update

Natural Resources

WETLANDS / FISH & WILDLIFE HABITAT



Denver Igarta, Associate Planner

Natural Resources Overview

October 2:

- Streams and Riparian Areas
- Groundwater
- Minerals (Geology, Aggregate Resources & Soils)

October 16:

- Wetlands
- Fish and Wildlife Habitat

WETLANDS

FUNCTIONS

- Aesthetic, Educational and Recreational Values
- Ecological
 - Flood Control
 - Water Quality
 - Aquatic & Terrestrial Habitat



Potential Threats

- Encroachment by development, altered drainage patterns, pollution and nuisance plant species.

WETLANDS

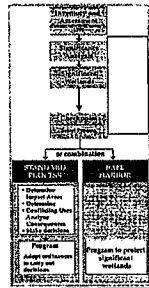
FEDERAL / STATE PLANNING & PERMITTING

- US Army Corps –federal permitting for compliance with Section 404 of the CWA and Section 10 of the Rivers and Harbors Act
- Oregon Statewide Planning Goal 5
- Oregon DSL
 - Approves Local Wetlands Inventories (LWI)
 - State permitting for removal and fill in wetlands

WETLANDS

GOAL 5 INVENTORY PROCESS

- Local Wetland Inventory (LWI)
- Significance Determination
- Alternate Processes
 - Standard ESEE
 - Safe Harbor



WETLANDS

SAFE HARBOR PROTECTIONS

Locally Significant Wetland (LSW):

Wetlands which ranked highest on four of the assessed ecological functions (i.e. wildlife habitat, fish habitat, water quality & hydrologic control)

Regulatory restrictions on:

- Grading
- Excavation
- Placement of fill
- Vegetation removal



STATISTICS & FINDINGS

- [illegible]

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FUNCTIONS

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FISH & WILDLIFE HABITAT


COORDINATION

- Federal Endangered Species Act
- Oregon Statewide Goal 5
 - Procedures for compliance
- Oregon Natural Heritage Program – listed species
- Oregon Fish and Wildlife – species and habitat data


FISH & WILDLIFE HABITAT

COORDINATION (cont.)

- Metro Nature in Neighborhoods – Title 13, functional plan for riparian and upland wildlife habitat



 - Inventory of regionally significant riparian and upland habitat areas
- Tualatin Basin Partners for Natural Places



FISH & WILDLIFE HABITAT

COORDINATION (cont.)

Tualatin Fish and Wildlife Habitat Program intended to complement:

- Clean Water Services (CWS)
 - Design and Construction Standards
 - Healthy Streams Plan
 - Stormwater Management Plan
- Existing local regulations
 - Tigard Development Code
 - Sensitive Lands
 - Tree removal

FISH & WILDLIFE HABITAT

STATISTICS & FINDINGS

- Metro "vegetative cover" map shows roughly 11% of the City is covered by forest canopy (2002)
- Inventoried "significant" habitat in Tigard is heavily concentrated adjacent to local stream corridors – nearly 80% classified as riparian habitat.
- Roughly 20% of City's "significant" habitat is classified as upland resources.

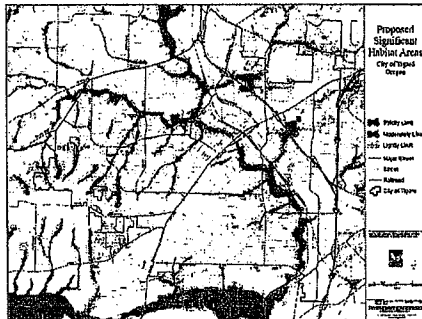
FISH & WILDLIFE HABITAT

STATISTICS & FINDINGS (cont.)

Tualatin Basin Economic, Social, Environmental and Energy (ESEE) findings of the inventoried regionally significant habitat:

- 588 acres designated as highest-value (strictly limit)
- 370 acres was designated as medium-value (moderately limit)
- 422 acres was designated as lower-value (lightly limit)

FISH & WILDLIFE HABITAT MAP



THANK YOU!



MEMORANDUM

TO: City Council

FROM: Denver Igarta, Associate Planner

RE: Proposed Habitat-Friendly Development Provisions
CPA 2006-00001/DCA 2006-00004

DATE: November 7, 2006

This memo transmits the recommendations to City Council made by the Planning Commission at a public hearing held on October 16, 2006, concerning proposed habitat-friendly development provisions (CPA 2006-00001/DCA 2006-00004). At the public hearing, the Planning Commission voted unanimously to recommend approval of the proposed amendments subject to the modifications which are described below.

The purpose of this memo is to inform the City Council of the proposed amendments and modifications made subsequent to the October 16th public hearing in anticipation of Council's November 21st worksession and its December 12th public hearing.

In addition to the Planning Commission recommendation, Metro independently advised the City offer a simplified process for verifying habitat boundaries to more effectively encourage habitat protection. The agency's comments were not submitted in time for the Planning Commission's public hearing. Metro's recommendation is minor in nature and does not substantively change the proposal as reviewed and recommended by the Planning Commission. Since the proposed amendment is considered legislative, Council may adopt the changes along with the provisions recommended by the Planning Commission. Staff recommends this course of action.

Background

Why is the City adopting new Habitat-Friendly Development Provisions?

The proposed amendments result from Metro assuming responsibility for fish and wildlife habitat as "regional resources" (in compliance with Statewide Goal 5) by adopting Title 13 – Nature in Neighborhoods as part of their Urban Growth Management Functional Plan, which was acknowledged in October 2006, by the State Land Conservation and Development Commission (LCDC). Following LCDC acknowledgement of the Functional Plan, local governments within Metro must apply Metro requirements rather than the requirements of Statewide Goal 5.

Since 2002, the City of Tigard has collaborated with other local jurisdictions within Washington County to develop the *Tualatin Basin Fish and Wildlife Habitat Program*. In September 2005, Metro incorporated the Tualatin Basin Program as part of the regional Nature in Neighborhoods Program

(Title 13 of the Metro Functional Plan). Basin jurisdictions must now implement applicable elements of the Tualatin Basin Program by the end of the year.

It is important to emphasize that the proposed habitat-friendly development provisions are aimed at fulfilling the requirements of Title 13, which sets minimum requirements for preserving riparian and upland habitat areas. Local jurisdictions may adopt protection and restoration programs that go beyond the regional program; however, this must be carried out in accordance with standard Goal 5 procedures and be approved independently by LCDC.

What do the Habitat-Friendly Development Provisions Propose?

The proposed amendments will not result in increased development restrictions but will give property owners and developers the option to take advantage of greater regulatory flexibility in exchange for the use of habitat-friendly practices. These amendments also remove barriers to development that incorporate recommended habitat-friendly development techniques.

Status of Existing Regulations

Existing regulations contained in Clean Water Services Design and Construction Standards and the City's Community Development Code (including protections for drainageways, riparian/vegetated corridors, wetlands, floodplains, steep slopes, and trees) are more restrictive and therefore supersede the proposed voluntary habitat-friendly development provisions.

Planning Commission Recommended Changes to Staff's Original Proposal

The Planning Commission has recommended that Council adopt the proposal with the following modifications.

1. Density Transfer: At the Commission's September 25th worksession, staff proposed a density transfer provision based on the Tualatin Basin recommendation (i.e. allow development potential to be transferred from qualified habitat areas) to augment existing regulations which provide density transfer/bonuses for the following:
 - 100-yr floodplain, steep slopes and drainageways: Up to 25%;
 - Wetlands: Up to 100% for land zoned R-12, R-25, and R-40;
 - Tree retention: 1% bonus for each 2% of canopy cover, up to 20% ; and
 - Planned developments: 1% bonus for each 5% of the gross site area set aside in open space, up to 5%.

The Planning Commission decided to recommend to the City Council that code amendments be deferred until further consideration can be given to establishment of design standards and review procedures to ensure that proposed density transfers will be compatible with the surrounding neighborhood. The issue shall be added to the Planning Commission calendar for further discussion in the near term.

2. Exemption for Projects to Implement CWS Healthy Streams Plan: At the October 16th Public Hearing, public testimony was given in opposition to exempting projects which implement Clean Water Services Healthy Streams Plan from the City's Sensitive Lands provisions since this would remove the process for citizens to review and comment on proposed actions. Based on the testimony, the Planning Commission decided to exclude this exemption from the habitat-friendly development provisions being recommended for approval by Council.

Metro Recommendation

Subsequent to the October 16th Public Hearing, Metro advised City staff of the need to offer a simplified map verification process (per Metro Code Section 3.07.1330.G.2.) to applicants who agree that the adopted Significant Habitat Areas map is accurate. As a result, applicants who agree with the map would not be required to hire a professional consultant or conduct a detailed on-site delineation. In response, staff has modified the proposed map verification procedures accordingly.

Public Hearing Comments and Responses

In order to clarify responses to issues raised and comments submitted at the October 16th Public Hearing with the Planning Commission, staff has prepared the attached summary (refer to Attachment 6). Written comments were submitted on October 16th by the Biodiversity Project of Tigard.

Council Options

On December 12, 2006, a public hearing will be held with City Council on the proposed amendments. In accordance with Code Section 18.390.060.H.4., the Council has the final authority to approve, modify or deny the application for legislative change.

Should the City Council approve or modify the proposed habitat-friendly development provisions, the City of Tigard would fulfill its obligation, under Metro Title 13, to adopt provisions to facilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate.

Should the City Council decide not to adopt the proposed amendments (which are based on the Tualatin Basin recommendations), the City may choose to amend its Comprehensive Plan and implementing ordinances to adopt Metro's Title 13 Model Ordinance and the Metro Habitat Conservation Areas Map.

Possible Next Steps

If the proposed habitat-friendly development provisions are adopted, the City Council could elect at a later time to enhance and expand upon existing regulations and protections beyond the minimum requirements set by Metro Title 13. Should the City decide to adopt greater limits on development outside the CWS vegetated corridor, but within inventoried significant habitat areas, it must follow State Goal 5 procedures and gain approval directly from the State Land Conservation and Development Commission (LCDC).



MEMORANDUM

TO: City Council

FROM: Denver Igarta, Associate Planner

RE: Response to the October 16th Public Hearing Issues and Comments
CPA 2006-00001/DCA 2006-00004

DATE: November 7, 2006

The following documents staff responses to issues brought up and written comments submitted at the October 16, 2006, public hearing.

Administrative Procedures for Verification of Precise Boundaries: The Significant Habitat Areas Map is intended to establish the “general”, and not precise, location of significant riparian and upland habitat areas according to classification (i.e. “strictly”, “moderately” and “lightly” limit). The proposed habitat-friendly development provisions rely on a voluntary approach to preserving habitat and their utilization within inventoried significant habitat areas would not be mandatory.

The proposed site-level delineation methodology (Section 18.775.140) is based on Metro’s model ordinance and provides procedures for verifying the precise boundaries of the inventoried habitat areas. Site-specific delineations to verify precise boundaries are not to be considered a comprehensive plan amendment.

Following the adoption of local implementing ordinances, each jurisdiction will be responsible for administering procedures for verifying the city’s adopted map deemed by Metro to be in substantial compliance with Title 13 of the Urban Growth Management Functional Plan.

Portions of Streams are Unmapped: Metro’s fish and wildlife habitat inventory, which served as the basis for the proposed Significant Habitat Areas Map, was completed in compliance with Statewide Goal 5 rules and based on an extensive scientific literature review which combined geographic information system (GIS) mapping technology, scientific recommendations, and fieldwork.

Metro utilized current data on stream locations provided by Clean Water Services in conducting their inventory of riparian habitat areas and designated significant riparian habitat based on microclimate & shade, streamflow and water storage, bank stabilization, sediment and pollution control, woody debris and channel dynamics, and organic matter input.

In October 2006, the Oregon Land Conservation and Development Commission (LCDC) approved acknowledgment of Metro’s Goal 5 (Title 13) inventory and program. Any provisions that go

beyond Metro's Title 13 program or map must be formed following State Goal 5 procedures and be submitted directly to LCDC for approval.

Clean Water Services has created digital geographic information system (GIS) files mapping streams based on data surveyed and collected in the field in 2000 and 2001. All streams within Tigard (whether perennial or intermittent) are designated by definition as "sensitive areas" under Clean Water Services' Design and Construction Standards, which establishes adjacent "vegetated corridor" buffers, requires a natural resource assessment for proposed development and mandates restoration of corridors in marginal or degraded condition.

Regulatory Protections: Existing regulations (which will still apply), including standards contained in the City of Tigard Community Development Code and CWS Design and Construction Standards, are more restrictive and therefore supersede the proposed voluntary habitat-friendly development provisions.

Both the Metro Nature in Neighborhoods Program and the Tualatin Basin Fish and Wildlife Habitat Program rely on voluntary, incentive-based approaches for proposed development outside those areas already subject to existing regulations. Further restrictions on development which go beyond the scope of this application should be addressed as part (and incorporated into) the larger Comprehensive Plan update process and any subsequent code enhancements identified for the City's local implementing ordinances.

Deducting Significant Habitat Areas from Net Development Area: The proposed code amendment would give developers the "option" of deducting inventoried significant habitat from the "net acre" as recommended by the Tualatin Basin Goal 5 Program Implementation Report.